

November 25, 1953
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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Wednesday, November 25, 1953, at 4 o'clock p.m., with Mayor Van Every presiding, and Councilman Albea, Baxter, Boyd, Brown, Dellinger, Smith and Wilkinson present.

Absent: None.

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Wilkinson, seconded by Councilman Smith, and unanimously carried, the minutes of the last meeting on November 18th were approved as submitted.

PETITION DENIED FOR ADOPTION OF ORDINANCE TO AMEND ZONING ORDINANCE TO CHANGE ZONING FROM R-1 to B-1 ON PORTION OF LOT AT COLONY ROAD AND SELWYN AVENUE.

The scheduled hearing was held on an Ordinance to Amend the Zoning Ordinance to change the zoning from R-1 to B-1 on a portion of a lot at Colony Road and Selwyn Avenue, on petition of Dr. R. P. Lyon and recommended by the Zoning Board of Adjustment.

Mr. Fred Hasty, attorney representing the opponents to the change, stated that the large delegation present are residents of the immediate area of Colony Road and Selwyn Avenue, who, together with some fifty-five others in the immediate vicinity vigorously oppose the change. He advised that the petitioner, Dr. Lyon, intends to construct a Supermarket on the lot, which will place it immediately adjacent to the homes of several of these people, and a serious parking problem and traffic congestion will result therefrom. He stated that in late 1948 when it was known that the area would be annexed to the city, and would logically be zoned as residential, that Dr. Lyon hastened to construct on his lot a Service Station and Beauty Parlor facing on Selwyn Avenue and a Washerette facing on Colony Road. That when the area was annexed to the City the property was zoned for business 100-feet back from Selwyn Avenue and the rear portion, on which the Washerette stands, as Residence-1. That at the public hearings on the original zoning of the area, Dr. Lyon protested the zoning without avail. That the zoning as established by the Zoning Commission was to provide a protection to the owners of residential property in the area. He stated there is no objections whatsoever to the development of the property by Dr. Lyon for residential purposes, but the construction of a Supermarket is protested.

Mr. Hasty advised further that Dr. Lyon's petition for the change in zoning from R-1 to B-1 was approved by the Zoning Board of Adjustment by a vote of only 3 to 2. That Dr. Lyon has enjoyed the non-conforming use of a portion of this property by the operation of the Washerette and the rights of the residential owners should now be considered and protected from the further encroachment of business.

Councilman Boyd called attention that the zoning maps showed a difference in the distance of the present B-1 zone, one map showing it to be 100-feet and another 150-feet. Mr. Hasty stated that the zones on the map in the City Clerk's office were shaded in by the Engineering Department; however, a study of the Minutes of the Hearings on the original zoning, and of newspaper articles on the subject, show that the B-1 zone was definitely fixed as 100-feet, and the map established from these hearings is on file and has "100 feet" written on it at this point, which he is told was done by the late Mr. J. B. Marshall, Engineer for the Zoning Commission.

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Mr. Brock Barkley, Attorney, presented the argument for the petitioner, Dr. Lyon. He stated that Dr. Lyon wishes to construct a Supermarket on the lot which will face on Selwyn Avenue with no entrance on the Colony Road side, and that off-street parking will be provided if the petition for the zoning change is allowed, which will take traffic off Selwyn Avenue and aid in relieving congestion at this point. He pointed out that Dr. Lyon acquired the property in 1926 without restrictions and the adjoining lots were purchased by the owners with restrictions, and the knowledge that Dr. Lyon owned the adjacent property unrestricted.

He called attention that the zoning maps show a variance in the zone boundary line, and actually an unknown portion of the property was zoned as B-1 by the Zoning Commission and there were no official and recorded distances established by the Zoning Commission. That the City Council adopted a zoning map, not the distance of the zoning. He presented a letter from Mr. A. V. Blankenship, Engineer, in which it was stated that in investigating the zoning setback line on the property, the zoning map in the City Clerk's office was scaled to determine the distance and shows it to be 170 feet; also, the official zoning map in the Planning Board office was scaled with the same result. However, this scaled distance for each of these maps cannot be taken as absolute proof of the distance since the official City of Charlotte map on which the zoning information is placed, is on a scale of 1" equals 1,000 feet, and cannot be scaled closer than 10 feet to 15 feet with any degree of accuracy. That the individual pencil lines showing the shaded area outlining the zoning area are themselves several feet wide when scaled on the City map, and it can be seen that even the scaled distances on these maps are somewhat debatable." Mr. Barkley stated that Mr. Richey, the City Engineer, advises that he cannot scale the zoning map within 10 to 15 feet of accuracy. He advised that when it is necessary to rely on our zoning map alone, it is not possible to determine just how much of a person's property is in a given zone.

Mr. Barkley stated that a zoning ordinance is contrary to common law. It is an ordinance giving the Governing Body the authority to take away from the property owner certain rights to his property. That the ordinance is invalid because of its inapplicability to the law, and when an ordinance is adopted taking a man's property from him, it should be definite in its meaning, or the Council should recognize it and correct it.

Mr. Yancey, City Manager, stated that the map shows 150-foot because at the time the map was made up it was the consensus of opinion that most of the lot lengths would run 150-feet, and the other map shows 100-feet because after the hearings on the original zoning, Mr. J. B. Marshall and he were instructed by the Council to make certain changes and the zoning map on file shows the zoning of the area in question was changed from 150-foot to 100-feet, and the Council adopted the Zoning Map as changed.

Mr. Barkley advised further that the Zoning Board of Adjustment in acting on Dr. Lyon's recent petition for the zoning change, stated that the property is not suitable for anything except business, and unless the change is permitted by the Council, Dr. Lyon will be deprived of the proper usage of his property.

Mr. Charlie Henderson, Attorney representing Mr. James C. McLaughlin who operates a Grocery Store in the adjoining block of Selwyn Avenue, stated that Mr. McLaughlin's problem is parking for his customers as it is now possible for only one car to park in front of his store due to space and congestion. That Mr. McLaughlin wishes to lease the Supermarket that Dr. Lyon proposes to erect, and the zoning change will make it possible to provide off-street parking and to thereby better serve the neighborhood.

Councilman Baxter moved that the petition for the change in zoning be denied. The motion was seconded by Councilman Brown, and unanimously carried.

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SALARY INCREASE OF NINE PERCENT AUTHORIZED TO POLICE AND FIRE DEPARTMENT MEMBERS AND SIX PERCENT TO ALL OTHER CITY EMPLOYEES PRESENTLY BEING PAID UP TO BUT NOT EXCEEDING SIX THOUSAND DOLLARS.

Councilman Boyd moved that the salaries of the Fire Department members and of the Police Department members, including all members except the Chiefs, be increased, retroactive to July 1, 1953, nine percent of their present salaries, and that the salary of all other city employees, starting at the lowest salary paid up to but not exceeding \$6,000.00, be increased, retroactive to July 1, 1953, six percent of their present salaries, and that the starting pay of Police and Firemen be increased from the present salary of \$247.60 per month to \$277.24. The motion was seconded by Councilman Albea, and unanimously carried.

RESOLUTION RELATIVE TO TRANSMITTAL OF LETTERS FROM DREW PEARSON AND RELATED PAPERS REGARDING CHARGES AGAINST THE POLICE DEPARTMENT TO THE MECKLENBURG COUNTY GRAND JURY AND THE DISTRICT SOLICITOR.

The following resolution was introduced by Councilman Boyd:

"WHEREAS, during the progress of the study of the Charlotte Police Department by a three-man Committee appointed by the City Council on August 5, 1953, Drew Pearson, a newspaper Columnist and Radio Commentator of Washington, D. C., broadcast the charge that an underworld gambling racket with police payoffs was flourishing in Charlotte, this charge being published in The Charlotte Observer of August 31, 1953, a copy of which is hereto attached and in a letter dated September 2, 1953 to Dr. R. S. Snyder, Chairman of this Police Study Committee, Drew Pearson sent the names of 10 men to Dr. Snyder, stating that those men could give information to substantiate his charges and on September 14, 1953, Pearson wrote Dr. Snyder another letter on this matter, copies of both letters and a list of the 10 names being hereto attached; and

WHEREAS, the City Council and the Police Study Committee desire to have these charges investigated by the Mecklenburg County Grand Jury to find the facts in connection with said charges in order that the odious charges might be cleared up by the Grand Jury.

I, therefore move that the Mayor be requested and authorized to transmit the attached papers, together with a copy of this resolution, to the Foreman of the Mecklenburg County Grand Jury and to Solicitor Basil L. Whitener with the request that the charges of Drew Pearson be investigated and that the findings of the Grand Jury be made public and that the Grand Jury be requested to handle this matter as soon as possible in the public interest."

The motion was seconded by Councilman Baxter, and unanimously carried.

DECEMBER 24th AND DECEMBER 25th GRANTED AS CHRISTMAS HOLIDAYS FOR CITY EMPLOYEES.

Councilman Brown moved that City Employees be given a holiday for Christmas on December 24th and 25th. The motion was seconded by Councilman Albea, and unanimously carried.

RESOLUTION RELATIVE TO PAINTING AND CLEANING THE POLICE DEPARTMENT BUILDING.

The following resolution was introduced by Councilman Smith:

"BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE THAT The City Manager and the Chief of Police be authorized and directed to do such cleaning and painting in the Police Department as they may deem adequate and necessary insofar as available funds will permit in accordance with the recommendation No. 16, Page 4, of the report of Dr. Snyder and Mr. Schwartz, and that in the event of the need of additional funds report same to this Council with their recommendation."

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Councilman Smith moved the adoption of the resolution, which was seconded by Councilman Boyd, and unanimously carried.

RESOLUTION RELATIVE TO THE PREPARATION OF ORDINANCES WITH REGARD TO THE USE OF POOL ROOMS BY MINORS AND THE SALE OF BEER TO MINORS.

The following resolution was introduced by Councilman Smith:

"BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE That Mr. John D. Shaw, City Attorney, be authorized and instructed to draft the suggested ordinances referred to in Supplement G of the Report of Dr. Snyder and Mr. Schwartz relative to the use of pool halls by minors and the sale of beer to minors and to present such ordinances to this Council for their consideration or to make such legal investigation as may be necessary to determine the validity of such ordinances and to furnish this Council with his opinion regarding same."

Councilman Smith moved the adoption of the resolution, which was seconded by Councilman Boyd, and unanimously carried.

RESOLUTION RELATIVE TO PROVIDING FACILITIES AND ADEQUATE STAFF FOR THE JUVENILE BUREAU OF THE POLICE DEPARTMENT.

Councilman Smith introduced the following resolution:

"BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE That the City Manager and Chief of Police are hereby authorized and instructed to proceed immediately to provide suitable quarters, adequate space, and adequate staff and adequate equipment for the Juvenile Bureau of the Police Department insofar as funds are available to comply substantially with the recommendations contained in Article 5, Page 3, and Supplement "D", Page 11 of the report of Dr. Snyder and Mr. Schwartz, and in the event of the need of additional funds to report such need to this Council, with their recommendation."

Upon motion of Councilman Smith, seconded by Councilman Brown, and unanimously carried, the resolution was adopted.

RESOLUTION AUTHORIZING ONE DOLLAR PER MONTH PER ENROLLED EMPLOYEE HOSPITALIZATION CONTRIBUTION.

The following resolution was introduced by Councilman Boyd:

"WHEREAS, it has been represented to this Council that The Hospital Care Association, Incorporated, Durham, North Carolina, has secured enrollments for its Group Hospitalization Plan of 75% or more of the employees of the City of Charlotte;

AND, WHEREAS, it is in the public interest that its employees have provision made for their hospitalization;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

That, the City Council finds as a fact that 75% or more of the employees of the City have signed up for Blue Cross Hospital Care with The Hospital Care Association, Durham, North Carolina.

That, the proper officers of the City be, and they hereby are, authorized, empowered and directed, to pay to The Hospital Care Association, Durham, North Carolina, the sum of one dollar per month per employee enrolled in said Blue Cross Plan, and BE IT FURTHER RESOLVED, that such officers of the City of Charlotte be, and they hereby are, authorized, empowered and directed, to continue such payments so long as said employees shall remain employed by the City of Charlotte and enrolled in said Plan, and on behalf of any other employees of the City subsequently enrolling in such Group Insurance Plan.

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BE IT FURTHER RESOLVED, that future budget appropriations by the City of Charlotte to take care of such hospital costs shall be authority to such officers of said City, continuing from year to year to make such one dollar per month per enrolled employee contribution under said Group Hospitalization Insurance Plan."

Councilman Boyd moved the adoption of the resolution, which was seconded by Councilman Brown, and unanimously carried.

PURCHASE OF LOT AT 133-41 GOLD STREET, FOR WIDENING OF GOLD STREET.

Motion was made by Councilman Albea, seconded by Councilman Wilkinson, and unanimously carried, authorizing the purchase of a strip of land off the front of lots at Nos. 133-41 Gold Street from James W. Gibbon and Commercial National Bank, Executors of the Will of R. L. Gibbon, at a price of \$3,413.60, for the widening of Gold Street.

MAYOR PRO TEM PRESIDES FOR REMAINDER OF MEETING.

Mayor Van Every left the meeting to fill an engagement at this time, and Mayor pro tem Smith presided for the remainder of the session.

RESOLUTION FIXING DATE OF HEARING ON DECEMBER 16TH IN CONNECTION WITH ORDINANCE NO. 193 AMENDING ZONING ORDINANCE TO CHANGE ZONING FROM R-2 TO B-1 ON PROPERTY ON SOUTHWEST SIDE OF CHAMBERLAIN AVENUE.

An ordinance entitled: "Ordinance No., 193 To Amend the Zoning Ordinance" by changing the Building Zone Map from Residence-2 to Industrial on property located on the southwest side of Chamberlain Avenue at the request of Old Dominion Box Company, was introduced and read. Following which, a resolution entitled: "Resolution Providing for a Public Hearing on the Proposed Amendment to the Zoning Ordinance" on December 16th, was introduced and read, and upon motion of Councilman Wilkinson, seconded by Councilman Albea, and unanimously carried, the resolution was adopted. The resolution is recorded in full in Resolutions Book 2, at Page 161.

ONLY BID ON ERECTION AND OPERATION OF GASOLINE SERVICE STATION AT AIRPORT REJECTED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the bid of Columbus Oil Company, being the only bid received on the erection and operation of a Gasoline Service Station on the City's property at Douglas Municipal Airport, was rejected as recommended by the City Manager as it was incomplete and therefore unsatisfactory.

FANNIE CIRCLE, FROM MONROE ROAD TO END OF PRESENT MAINTENANCE NEAR GENE STREET, TAKEN OVER FOR MAINTENANCE.

Upon motion of Councilman Albea, seconded by Councilman Baxter, and unanimously carried, Fannie Circle, from Monroe Road to end of present maintenance near Gene Street, was taken over for maintenance by the City.

CONSTRUCTION OF SEWER TRUNK AND MAIN IN ST. JULIAN STREET, ET AL.

Councilman Baxter moved that the construction of 505-feet of 8-inch sewer trunk and 445-feet of sewer main be authorized in St. Julian Street, Ethelind Avenue, East 9th Street and Alley, ^{and under S.A.L. Railway tracks} at an estimated cost of \$4,000.00 to serve 13 family units and 3 vacant lots, at request of Mr. W. B. Presson, 518 Clarice Avenue, with all costs to be borne by the City. The motion was seconded by Councilman Albea, and unanimously carried.

AGREEMENT WITH STATE HIGHWAY & PUBLIC WORKS COMMISSION FOR RIGHT-OF-WAY FOR INSTALLATION OF WATER MAIN IN BELHAVEN AND NELSON STREETS.

Motion was made by Councilman Albea, seconded by Councilman Baxter, and unanimously carried, authorizing an agreement with the State Highway & Public Works Commission for right-of-way in Belhaven and Nelson Streets for the installation of a 2-inch water main.

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CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the construction of driveway entrances was authorized at the following locations:

- (a) Two 22-ft. driveways at 2923 South Tryon Street.
- (b) One 14-ft. driveway at 516 South Church Street.
- (c) One 30-ft. driveway at 117 West 7th Street.
- (d) Increase the present 11.5-ft. driveway to a 30-ft. driveway at 1000 East Morehead Street.

LEASE OF AIRPORT BUILDINGS.

The City Manager reported that leases have been concluded on buildings at Douglas Municipal Airport to the following concerns:

BUILDING NO.	LESSEE	MONTHLY RENTAL	DATE AND TERM OF LEASE
259	Cotton Mill Machinery Co.	\$17.50	11-15-53 1 year renewal
242	Cotton Mill Machinery Co.	36.50	11-15-53 1 year renewal
41	Hanover Distributing Co.	83.20	12-1-53 1 year renewal
265	S. H. Kirkpatrick	52.50	12-1-53 1 year renewal
292	S. H. Kirkpatrick	30.00	12-1-53 1 year renewal
213	Carolina Machinery Co.	27.00	8-15-53 1 year renewal

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Baxter, seconded by Councilman Albea, and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mr. Nick D. Garden, for Lot 396, in Section 4-A, Evergreen Cemetery, at \$81.90.
- (b) Deed with Mr. A. J. Begendorf, Jr., for Lot 92, in Section 2, Evergreen Cemetery, at \$104.00.
- (c) Deed with Mrs. J. A. Leventis, for Lot 271, Section 4-A, Evergreen Cemetery, at \$81.90.
- (d) Deed with Mrs. N. H. Lapham, for Grave #3 on Lot 157, in Section 3, Evergreen Cemetery, at \$26.00.
- (e) Deed with Mr. John Nauful, for Perpetual Care on north half of Lot 126, in Section Q, Elmwood Cemetery, at \$50.00.

ADJOURNMENT.

Upon motion of Councilman Baxter, seconded by Councilman Albea, and unanimously carried, the meeting was adjourned.

Lillian R. Hoffman
City Clerk