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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber in the City Hall, on Monday, October 9, 1967, at 3:00 o'clock p.m., with Mayor Stan R. Brookshire presiding, and Councilmen Fred D. Alexander, Sandy R. Jordan, Milton Short, Gibson L. Smith, James B. Stegall, Jerry Tuttle and James B. Whittington present.

ABSENT: None.

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INVOCATION.

The invocation was given by Councilman Short.

MINUTES APPROVED.

Upon motion of Councilman Smith, seconded by Councilman Whittington, and unanimously carried, the Minutes of the last meeting on Monday, October 2, were approved as submitted.

ORDINANCE NO. 712-X AUTHORIZING REPAIRS TO BE MADE TO STORM DRAIN CONDUIT ON PRIVATE PROPERTY AND TO CHARGE THE COSTS THEREOF TO THE PROPERTY OWNER.

Mr. John D. Shaw, Attorney, stated he is present on behalf of Mr. John G. Myers who has a serious drainage problem on Brandon Road. That he is sure the City would like to see it fixed at the least possible cost to anyone. He requested that the City Manager be instructed to have the City Engineer take the de-rooter and open up the drain and see where we stand. He stated there is a possibility of a line going straight through between Mr. Marshall Pickens and Mr. Myers' property. That is the ultimate, but at the present time they suggest it be opened up and find out exactly what is wrong.

Mayor Brookshire asked what has been done by the City to determine the problem? Mr. Bobo, Administrative Assistant, replied it has been rodded from the catch basin in the city street to try to unstop it but it could not be done. If Council approves the subject ordinance, it will give the City the right to go on the property and from that point perhaps the rodder could be used to unstop it. That the City will use the least expensive method to unstop the pipe.

Mr. Shaw stated he is authorized to grant the City any permission to enter the property and make the explorations.

Councilman Whittington stated if the ordinance passes and if the problem is on Mr. Myers' property, then the City will bill him for the cost of the work; if it is part on his neighbors, he would be billed also; but those who are stopping the normal flow would be responsible for paying whatever cost it will take to get it repaired.

Councilman Tuttle stated Council has discussed this problem and the way the ordinance reads, it assumes all the problem is on Mr. Myers' property; but Council has agreed should it develop that a part of the problem is on one or two other pieces of property, then the necessary ordinances will be drawn so that Mr. Myers would not pay for the complete job; the other property owners would bear their part of the cost. Some ordinance has to be drawn to give the City the right to go onto the property.

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Mr. Shaw stated they want an exploration to know what it is before it is finally done so that Mr. Myers will know what it will cost.

Later in the meeting, Mr. Shaw came back to Council and stated the recommended ordinance appears to go pretty far. They they are seeking help, but from discussing it with Mr. Myers, he needs engineering advice which he understood the City was willing to furnish. Then the question was would rodding open up the present line. Now they are giving the City permission to go on this property and rod it from Mr. Myers' manhole. That his proposition is the ultimate rather than the whole - the ultimate is to have the property owners furnish the pipe and the City to do the work. That is the ultimate if it becomes necessary to redesign the line - not all of it by ordinance put on Mr. Myers.

Mr. Shaw stated they would like to have as much engineering advice and help as they can get. That he feels if they would get in there and get the roots out it would clear it - maybe replacing one or two sections.

Mr. Josh Birmingham, Assistant City Engineer, stated they have tried mechanical equipment from the road and have been unsuccessful. What they propose now is to go in there with the mechanical equipment and dig a hole. If they can get the mechanical equipment in at that point, they can do it; if they cannot, they would have to excavate the ditch and take out the crushed pipe and replace it with similar type material. He stated they do not plan to do any new construction or new routing of the line.

Councilman Alexander stated the ordinance gives the City permissive right across Mr. Myers' land to tap this line. He asked if the permission now being granted by Mr. Myers' attorney would not give the City the right to go on his land, and after going on his land, it is found what they wanted to do cannot be done and it requires such an ordinance as this, would Council not have time to do it then? He asked if his permissive right which gives the City the right to go on the land is legal? Mr. Bobo replied there would still be the problem of spending City Funds on private property; the City Charter says you cannot spend tax money on private property; this drainage is the responsibility of the property owner. Mr. Underhill, Assistant City Attorney, stated the City Charter provides that the City Council has the power to require all property owners to provide adequate drainage facilities to the end that their premises be free from standing water and to permit the natural flow thereon to be taken care of; in case they fail to take the necessary steps to provide adequate drainage facilities the City can go on the premises and construct it and bill it to the owners. It is not the City's responsibility to handle the natural flow and drainage of water on private property; it is the property owner's responsibility. If he does not do this, in order to alleviate the problem Council has the authority to give the City Engineering Department power to go in and correct the problem, and bill the property owner for this.

Councilman Tuttle asked how long the problem has been in existence? Mr. Birmingham replied their records date back to 1959; that he knows of two or three occasions in the past couple of years that this has been discussed with Mr. Myers; the severity of the problem has increased since 1959. It is to such a point now that the street is flooded after every rain. He stated they want to go in, not to do exploratory work, as they know where the stoppage is. They want to go in and correct it and open the line so it can flow.

Councilman Tuttle stated in view of the fact that this is a problem of long standing and in view of the fact that Council unofficially has made itself clear if this is not altogether Mr. Myers' problem and it borders on liability regarding other property owners that it will then draw a new ordinance to make the other people responsible, he moved the adoption of the subject

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ordinance. The motion was seconded by Councilman Whittington, and carried by the following vote:

YEAS: Councilmen Tuttle, Whittington, Alexander, Jordan, Short and Stegall.
NAYS: Councilman Smith.

The ordinance is recorded in full in Ordinance Book 15, at Page 123.

CONSTRUCTION OF SPEEDWAY ON WEST BOULEVARD NEAR AIRPORT ENTRANCE REQUESTED STOPPED.

Mrs. L. N. Bennett stated she is representing herself in regard to the new speedway proposed to be built beside her driveway on West Boulevard. She stated she had hoped more people would be present today, but she hopes it can be stopped because it will ruin the value of her property.

Mr. Thomas Ginn stated he is a stockholder in the Stonewall Jackson Homes and they have an investment of over \$300,000 in the property, and if the race track is permitted to be built at this location, it will depreciate their property to a great degree. That he would like to do everything possible to see it blocked.

Mr. Bobo, Administrative Assistant, advised Council there is a meeting scheduled with the Queen City Speedway tomorrow morning at 10:30. He stated this is outside the city limits and the city's jurisdiction only extends through zoning.

Councilman Tuttle asked if it should develop that such a thing was a public nuisance then this would come to the County? Mr. Henry Underhill, Assistant City Attorney, replied from a public nuisance standpoint, yes, unless it could be tied in with the city's jurisdiction. Councilman Tuttle asked if such a charge would have to be made by the people in the neighborhood? Mr. Underhill replied the matter could be litigated privately between any people affected by the business and the owner of the property. Councilman Short asked if the City could bring a suit to abate a public nuisance on the basis that it is the Airport that is affected? Mr. Underhill replied that is a possibility, if the City was so in fact affected by the public nuisance it would be the person injured and damaged by any alleged nuisance. Councilman Tuttle asked if the Federal Aviation Agency could if it is determined the dust would create a flying hazard? Mr. Bobo replied he understands this has been checked with the FAA and it does not violate any of their regulations.

Mr. Ginn referred to the Airport Zoning Ordinance which pertains to the construction of or installing any types of light that might interfere with the landing and taking off of airplanes that would be mistaken as a guide light by an airplane; also the dust and debris that might be coming from any business that has been built within two miles of the airport. He stated he and Mr. McLear have looked at these ordinances, and he would appreciate it if the legal staff would check on the possibilities of these ordinances.

Councilman Alexander stated both roads that lead to the speedway are roads that lead to the airport. That he can envision a line of traffic going to the speedway impeding traffic going to the airport, and it could be a problem unless an extra lane is developed where through traffic can have some access and would not be bottled up by the speedway traffic. Mr. Underhill replied in a somewhat similar case to this matter, the Court has ruled the right to use a public street extends to everyone for whatever purpose, and the mere fact that traffic will be increased because of a proposed use is no grounds for calling something a nuisance or classifying it as such. Insofar

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as any problem which you could base any action for nuisance in zoning, he does not think would stand up.

Councilman Short stated this is an urgent situation in terms of the legal principle of delay. If we wait too long we have no chance to get any sort of injunction or take any kind of action, just because we waited. He moved that Council authorize the Legal Department to seek an injunction - and the judge does not have to give it if he is not of a mind to - on the basis that the lights are interfering with the use of the airport, and the dust is a public nuisance to the City as a nearby neighbor. The motion was seconded by Councilman Whittington.

Councilman Smith asked what is the city's liability of preventing these people using the property and the money loss to them if they win the case? Mr. Underhill replied normally in any injunction type of hearing, the person bringing the law suit is required to put up a bond in order to hold safe the defendant. In case the City brought the action and lost, the City's bond would have to be forfeited for any loss they suffer.

Councilman Short stated if the Judge is willing to grant the injunction, the City should take the risk to the bond as this matter could be very dangerous.

Mayor Brookshire stated he would have no objection to the City asking for a restraining order or an injunction providing it is the recommendation of the City's Legal Department. Councilman Short stated he believes Mr. Underhill has said there is some possibility that the airport as such might bring an action to abate a nuisance. Mr. Underhill stated he thinks the City could probably bring a suit; whether there is a nuisance or an alleged nuisance that the City feels should be abated, he does not know. Their department has not been able to investigate it enough to determine this. Councilman Short stated all the motion amounts to is presenting it to the Judge, and he can either convert it to a show cause hearing or he can grant the injunction which would be a temporary injunction, or he could refuse the injunction. Mayor Brookshire stated in granting the injunction he could also require a bond of the city to cover any loss the owner might have.

Mr. Bobo stated he believes if Council will wait until next week, then he can come back with a report; that he does not believe too much can be done in one week's time.

Mr. Bob McLearn stated the airport is an asset to the City of Charlotte. That we have gone out of the way to have bond issues and increase our expenditures here to beautify and modernize the facility. That a race track at this particular junction from the standpoint of the City of Charlotte is definitely not the right place for it. That it can only serve as a black eye. That he understands the total expenditure here will be around a quarter of a million dollars - \$150,000 has been designated, and this leaves \$75,000 to construct an adequate fence, erect a grandstand or spectator bleachers, concession stands, to afford adequate parking facilities, and for a quarter of a million dollars, he does not see how it can be done.

Councilman Smith asked if the belt road does not come through this property? Mr. Bobo replied it comes east of the property but does not touch it; it is within 200 or 300 feet of it.

Mr. McLearn called attention to Classification (b) under the table of permitted uses in Zoning Section 23-31 pertaining to the uses permitted. That he has studied the Code extensively and cannot find anywhere in the entire book where it even suggests such a possibility as a race track being legal.

It calls for amusement, commercial outdoors, such as miniature golf, racers, golf driving ranges and similar types of golf courses, shooting galleries, and similar commercial amusement enterprises located at least 200 feet from any Residential District. He stated he believes all of these are miniature sports. As he understands it, the ordinance was adopted in 1956 when go-carts were very popular and some provision was made where the go-carts would be legal around the City of Charlotte. He stated none of these are spectator sports; they are participant sports.

Mayor Brookshire stated this is a matter Council will want the Legal Department to look into and advise Council upon before action is taken.

Councilman Stegall stated he is sure permits have already been granted for the people to begin this construction. Mr. Bobo stated only a permit to grade; no permit has been issued for any building of any kind. Councilman Stegall stated in the future should the Building Inspection Department be approached for a permit to build any such facility as this, or to be used for any such use as this, that before a permit is issued, he thinks a notice should be posted such as on public hearings for objectional uses. That he is sure these people looked into this very thoroughly and thought they could use the property for a race track before they purchased it. This might preclude this group or any other group from going into the purchase of land without knowledge of the fact that it cannot be used as objections might be brought to it. This would also notify the people in the area that this was the proposed use of the property, and if there were any objections, they could come before Council or the Inspection Department and they would say to the proposed developers that a permit could not be issued. That while he is in sympathy with the objectors, he is also in sympathy with the people building the race track to a point.

Mr. McLear stated they have 500 signatures of property owners who have vested rights in the area.

Councilman Smith stated this raises the question of whether the Council should review the zoning in the vicinity of the airport generally. Mayor Brookshire replied it might but the immediate question is whether or not the Legal Department will give Council advice regarding the recommended injunction. Councilman Smith stated he agrees with the Mayor's statement but he thinks the Planning Board should be instructed by Council to review some of the zoning in the area; there is property right at the entrance to the Airport that is Industrial - 2 and you could put a 12-story building there because it is in the dip; these things should be reviewed and checked before they come to this point, and recommendations made on how we can better protect that investment; it is unfortunate that we only have one entrance to the airport to begin with and we are really caught in a vise with something like this.

Mayor Brookshire stated the motion before Council is to instruct the Legal Department to seek an injunction against further grading or construction on this site. Councilman Short stated the motion can be expanded to say "if they deem it necessary", then Council would be in the position of having authorized it and allowed them to do this, but not having flatly instructed them. That he thinks our duty is not to decide this matter but to get it into the courts as quickly as we can.

Councilman Tuttle stated he is going to vote against this motion. He stated he is violently opposed to the speedway going out there; in view of the fact that our hands are tied insofar as the zoning is concerned and insofar as claiming this would be an added hazard at the airport, that he is inclined to want to wait until the meeting tomorrow and see what happens; especially so when he feels the answer to it is for these people to ask for the injunction because this is in the county, not in the city.

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Councilman Jordan stated these are his sentiments also, that Council wait until the meeting tomorrow morning and then go from there.

The vote was taken on the motion and lost by the following vote:

YEAS: Councilmen Short and Whittington.

NAYS: Councilmen Alexander, Jordan, Smith, Stegall and Tuttle.

SPECIAL OFFICER PERMITS AUTHORIZED.

Motion was made by Councilman Tuttle, seconded by Councilman Whittington, and unanimously carried, approving the renewal of Special Officer Permits as follows:

- (a) Renewal of Permit to James C. Hart, for use on the premises of Johnson C. Smith University, 100 Beatties Ford Road;
- (b) Renewal of Permit to Hank D. Self, for use on the premises of Charlotte Park and Recreation Commission, 310 North Kings Drive.

TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Whittington, seconded by Councilman Stegall, 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. and Mrs. Samuel M. Earnhardt, for Lot No. 328, Section 6, Evergreen Cemetery, at \$240.00;
- (b) Deed with Bronce Lee Ray and Vivian B. Ray, wife, for Lot No. 358, Section 3, Evergreen Cemetery, at \$472.50;
- (c) Deed with Thornton Thomas Tribble, for Graves No. 6 and 7, in Lot No. 159, Section 2, Evergreen Cemetery, at \$120.00;
- (d) Deed with W. Leon Stacks and wife, Estelle V. Stacks, for Graves No. 5 and 6, in Lot No. 25A, Section 3, Evergreen Cemetery, transferred from S. D. Bagwell and wife, at \$3.00 for transfer deed.

CONTRACT AWARDED INTERNATIONAL HARVESTER COMPANY FOR TWO-WHEEL VEHICLES WITH CABS.

Councilman Tuttle moved award of contract to the low bidder, International Harvester Company, in the amount of \$4,226.46, on a unit price basis for two 2-wheel drive vehicles with cabs. The motion was seconded by Councilman Whittington and carried unanimously.

The following bids were received:

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|---------------------------------|-------------|
| International Harvester Company | \$ 4,226.46 |
| Burner Parts, Inc. | 4,469.11 |

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CONTRACT AWARDED H. J. CATER PAINTING CONTRACTORS, INC. FOR PAINTING SHOP BUILDINGS ON FAIRMONT STREET.

Motion was made by Councilman Whittington awarding contract to the low bidder, H. J. Cater Painting Contractors, Inc., in the amount of \$1,135.00 for painting shop buildings on Fairmont Street. The motion was seconded by Councilman Jordan, and carried unanimously.

The following bids were received:

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| H. J. Cater Painting Contractors, Inc. | \$ 1,135.00 |
| W. C. Wallace & Son, Inc. | 1,150.00 |
| A. R. Lankford Painting Contractor | 1,993.00 |

CONTRACT AWARDED VAPOR BLAST MANUFACTURING COMPANY FOR LIQUID HONING MACHINE.

Motion was made by Councilman Stegall, seconded by Councilman Short, and unanimously carried awarding contract to the low bidder, Vapor Blast Manufacturing Company, in the amount of \$2,574.48 on a unit price basis for liquid honing machine for Water Department.

The following bids were received:

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| Vapor Blast Mfg. Company | \$ 2,574.48 |
| Apex Machine Tool Supply Company | 2,789.76 |

CONTRACT AWARDED WENGER CORPORATION FOR ACOUSTICAL SHELL FOR OVENS AUDITORIUM.

Councilman Short moved award of contract to the only bidder, Wenger Corporation in the amount of \$6,899.04 on a unit price basis for one acoustical shell for Ovens Auditorium. The motion was seconded by Councilman Stegall, and carried unanimously.

CONTRACT AWARDED SOUTHERN FLOORING & ACOUSTICAL COMPANY, INC. FOR ACCOUSTICAL CEILING FOR THIRD FLOOR ANNEX BUILDING.

Upon motion of Councilman Jordan, seconded by Councilman Alexander, and unanimously carried, contract was awarded the low bidder, Southern Flooring & Acoustical Company, Inc., in the amount of \$1,116.00 for acoustical ceiling for the third floor of annex building.

The following bids were received:

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|--|-------------|
| Southern Flooring & Acoustical Co., Inc. | \$ 1,116.00 |
| Acoustics Incorporated | 1,147.00 |
| Bost Building Equipment Company | 1,157.00 |

CONTRACT AWARDED DICTAPHONE CORPORATION FOR DICTATING & TRANSCRIBING EQUIPMENT.

Motion was made by Councilman Alexander awarding contract to the low bidder, Dictaphone Corporation, in the amount of \$2,314.93 for dictating and transcribing equipment for Police Department. The motion was seconded by Councilman Stegall, and carried unanimously.

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The following bids were:

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| Dictaphone Corporation | \$ 2,314.93 |
| Lanier Management, Inc. | 2,936.84 |

PROPERTY TRANSACTIONS AUTHORIZED.

Motion was made by Councilman Whittington, seconded by Councilman Jordan, and unanimously carried, authorizing property transactions as follows:

- (a) Acquisition of property 50' x 200' at 721 Wesley Avenue, from Chalmers Hammonds, and wife, Beulah H. Hammonds, at \$7600.00 for Thirtieth Street Widening;
- (b) Acquisition of easement 151.21 lineal feet, at 6330 Hazelton Drive, from Robert W. Crawford and wife, Sandra K. Crawford, at \$90.21 for sanitary sewer to serve Presbyterian Home.

SUGGESTION THAT STORAGE BUILDING BE CONSTRUCTED BEHIND COLISEUM REQUESTED PASSED ON TO AUDITORIUM COLISEUM AUTHORITY.

Councilman Stegall stated the rear of the Coliseum is a rather junky appearance because they do not have any facilities for storage of material they are forced to use on various setups for programs going on in the Coliseum.

He stated he would like Council to urge the Coliseum Authority to build a storage building behind the coliseum itself. That he is thinking of the area where the ramp goes in the back of the coliseum as you walk in on the ground level from the parking lot. This bank could be cut down and build some sort of structure to store and house this equipment that is now being stored under the marquee around the back of the coliseum. They have tractors and all kinds of equipment setting around that are required to be stored on the outside around the walkway. He requested that this suggestion be passed on to the Auditorium-Coliseum Authority.

DISCUSSION OF ONE CENT SALES TAX.

Councilman Smith asked if the Mayor has a report on the progress on the sales tax? Mayor Brookshire replied nothing that can be spelled out with a very definite announcement of detail plans, but there should be an announcement this week. Councilman Smith stated he feels we are losing ground on it with every day that goes by; this is one of the most important things that has come before us for the future of Charlotte; we are all waiting to do our share and are doing it independently and it would be more effective if we could organize on it. Mayor Brookshire stated although the time is short he thinks there is ample time to promote this and develop an understanding and knowledge of the needs to the point where the voters will pass the referendum. He stated a good many hours were spent on this matter last week. Councilman Jordan stated most of the Council members are making speeches on the tax, and he feels this is a good thing. Councilman Tuttle stated one thing that has stumped him was what the County is going to do in relation to the so-called roll back, and he understands they will make their decision next Monday.

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DISCUSSION OF LEGAL DEPARTMENT REPRESENTING CITY IN ALL CASES WHERE
CONSTITUTIONALITY OF ORDINANCE IS QUESTIONED.

Councilman Alexander stated he read in the newspaper that our blockbusting case came up in Court, and that the City was not represented at the case when it was heard. This is a case involving the constitutional law and a case that is important to the City, and he asked if this is customary that the City have no representation? Mr. Underhill, Assistant City Attorney, replied they were not present at this hearing because this matter was brought about as a result of a criminal charge, and their office leaves the prosecution of criminal matters to the Solicitor. They have never gone into the criminal courts and represented the City, only on the civil side of the issue. Councilman Alexander asked in a matter which involves the constitutional law that grew out of the city's development, would that not lead the City to have some concern? Mr. Underhill replied they turned over to the Solicitor's office all of the research material and all material they had relating to blockbusting for the Solicitor's use and he had the cooperation of the City Attorney's office in preparing all materials that would be needed to present the City's side of the constitutionality of the blockbusting ordinance. Councilman Alexander stated Judge Snapp has ruled the ordinance is unconstitutional. He stated if the City is going to make ordinances as important as the blockbusting ordinance and the City has a policy in the past that precludes the City being represented in court on these type matters, he thinks it should be changed to see that the city has some representation. He questions the wisdom of this type policy and he would like for it to be looked into to see if it is not a thing that needs to be changed. He does not know what the Council can do about it but it should give some thought to it.

Councilman Whittington stated he thinks it is most unfortunate that this ordinance was ruled unconstitutional by the Judge. It was hopeful when it was passed that it would be a deterrent against this sort of thing in the future, and for many hundreds of citizens, this is the only thing they have to depend on as a defense against blockbusting. While he did not know the City's Attorneys were not there, or whether it was the responsibility of Solicitor Schwartz and his associates, he thinks the City should have been represented and in the future we should and Council should be informed why it is unconstitutional and what Council could do to make it constitutional. Mr. Underhill stated Mr. Bill Watts, from the City Attorney's office, has gone over to talk to the Solicitors and to give notice of appeal to the North Carolina Supreme Court; the particular case in point resulted out of a complaint by a private citizen who swore out a warrant. The Solicitor being charged with the enforcement of all city laws and state statutes, it was the City Attorney's feeling rather than being actively involved as a special prosecutor that all the assistance they could was given with the exception of the actual participation in the case itself. The prosecutor is skilled in criminal work and they do not have the opportunity to get into criminal type practices much. They cooperated with the Solicitors to the extent of turning over all the materials they had; they instigated the investigation of the charges and assisted them with any research necessary to uphold the City's position on the constitutionality. This has been the position of the City Attorney's office that they not get involved in the actual prosecution of the case. If Council wishes otherwise, they would be most happy to do so.

Councilman Alexander stated he would imagine that each case would determine the best action; but he would like to convey the thought that any time

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the City is represented in matters of this type, whether or not the Legal Department feels they should argue the case or not, they should be present. There is no telling what can happen in these type cases and it may be necessary that they attempt to argue. That he cannot see the City leaving it to someone else.

Councilman Short stated he would like to comment about the matter of our attorney appearing wherever an ordinance has its constitutionality questioned. Constitutionality questions are raised by lawyers in the courts constantly. That he does not know that Council should leave with Mr. Underhill the impression that he is supposed to go over each time such a plea is made; but he does believe that the first time that a new ordinance is called into question with reference to its constitutionality that perhaps it would be appropriate to thicken up the amount of legal brains, and this might be a practical suggestion. That he hopes Mr. Alexander did not mean to imply that the City's civil staff will go over each time the constitutional issue is raised concerning an ordinance.

Councilman Alexander replied the issue is grave enough for the City to give it more attention than this action seems to imply was given to this. Whatever it takes, this is what the City needs to do. Councilman Short stated in order to have the City's civil staff present at each situation where a city ordinance might have its constitutionality questioned would require they attend court every day. Councilman Alexander stated he can accept the explanation Mr. Short gave that in cases like this where it is first attacked, the City should have more protection than it is apparent it had on this. If the Legal Staff is not equipped to handle it, then Council needs to see if it cannot improve its facilities over there so we can have what it takes to represent us on all angles. That he does not say they need to be there every time something comes up - maybe not or maybe so. If it takes that, then that is what we have a Legal Department for - to try to staff it and budget the money necessary to operate it adequately.

Councilman Short stated he would think this would be limited to appeals in Superior Court where the staff would know from the pleadings that this matter is going to be at issue, and he thinks it would even then be limited to those cases where it is the first time the constitutionality of a new city ordinance has been questioned.

PATROLMAN REQUESTED PLACED ON STATESVILLE ROAD BETWEEN IRWIN CREEK AND ALMA COURT FOR CHILDREN ATTENDING WILLIAMS SCHOOL.

Councilman Alexander stated regarding the traffic situation on Statesville Avenue - U.S. 21 - from Irwin Creek up to Alma Court where the children turn into Williams School, he has expressed concern about the hazards there. Just the other day, a near tragedy occurred. Traffic was moving in both directions and children were coming from school; one child accidentally got too far into the road and the driver veered to his left to keep from hitting the child which carried him too far in the opposite lane, and he had to veer back to his right to keep from running headon into another car. Just this morning, there was an accident between a big truck and a car and children just did come out of this alright. He stated the traffic is too heavy for any child to be out directing, speed signs are there but nobody pays any attention to the 25 MPH signs on that strip of highway. Councilman Alexander stated he thinks a regular patrolman needs to be stationed there during the hours that school sections are guarded and it should not be left to any children until something is done to improve the walkway for the children going to and from school. This is the City's responsibility and Council should authorize that this be done or else have a tragedy out there.

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Councilman Alexander stated this is not a crossing but is on the side of the road where most of the children walk. There is no sidewalk and the area where they walk is level with the highway, and there is no way to separate them. That Mr. Hoose has looked into this matter, but he is saying Council needs to instruct the Police Department to put a regular patrolman there immediately.

Mr. Bobo, Administrative Assistant, advised he will have a report back from Mr. Hoose shortly on this. Councilman Alexander asked what can be done about this tomorrow; those children need protection tomorrow; it is not just a crossway where they come to a point and cross the road.

Mayor Brookshire stated this problem is one that Council should seek advice from Mr. Hoose on and if he has any recommendations to make to the Police Department, he will make them; and he requested Mr. Bobo to have a report from Mr. Hoose next week. Councilman Alexander asked that Mr. Hoose look into it immediately as there are a lot of days between now and next week.

Councilman Whittington stated he is aware of what Mr. Alexander is talking about. This problem has been there ever since the school was erected on the site. The school was put there and then the School Board came to Council and asked that a road be built to the school site. That the problem today is the fault of the School Board administration and not Council's. That he grants it is the Council's responsibility to do what it can to get the children back and forth to school safely; it is also the school's responsibility. It seems to him the problem is to get the children off Highway 21 in the form of a walkway from the Village across the creek into the school; that he would be in favor of the City building some type of bridge and making a temporary sidewalk; this would all take time; but the only solution is to get them off Highway 21.

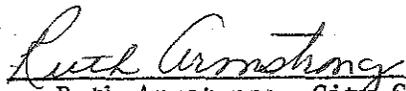
Councilman Alexander stated the thing that Council could do right now is to place a regular patrolman there to control the traffic while the children are there. Mr. Bobo stated he would ask the Traffic Engineer to look at it in the morning and if he says this is necessary, a patrolman will be out there.

Councilman Tuttle stated he did not think it would be asking too much of the Police Department to ask them to put someone out there in the morning, and then see what the Traffic Engineering Department comes back with. Councilman Jordan stated he agrees with Mr. Alexander and he knows the danger but if a permanent policeman is placed there, will that not be setting a precedent? Councilman Alexander replied if there are any other sections such as this he would say yes, put them there; these are elementary children standing in the most heavily traveled artery the State has through this town; they cannot react to a car and cannot judge the distance of the cars coming at the rate of speed they come.

Mayor Brookshire stated this is a problem for traffic engineering, and he asked Mr. Bobo to contact Mr. Hoose this afternoon.

ADJOURNMENT.

Upon motion of Councilman Short, seconded by Councilman Stegall, and unanimously carried, the meeting was adjourned.


Ruth Armstrong, City Clerk