MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN HELD IN THE TOWN HALL ON JUNE 10, 1942

Book 6, Page 1020

The Board of Aldermen held its regular monthly meeting in the Town Hall on June 10, 1942, with Mayor Foushee presiding and the following Aldermen present: Messrs. P.L. Burch, R.J.M. Hobbs, R.W. Madry, G.O. Davis, R.B. Fitch, and F.O. Bowman. Also present were J.L. Caldwell and E.R. Peacock.

Subject: Appointment of New Recorder.

It was suggested that if any raise in the salary of the Recorder was contemplated, it would have to be made before filling the vacancy caused by the resignation of Mr. Andrew C. McIntosh. Upon motion of Alderman Hobbs and seconded by Alderman Davis, the Board voted to raise the salary of the Recorder to $75.00 per month, said raise to become effective July 1.

Three candidates to fill the vacancy created by the resignation of Mr. Andrew C. McIntosh as Recorder were presented to the Board as follows: Mr. P.H. Robertson, Mr. John Manning, and Mr. Henry A. Whitfield. In a vote by written ballot, Mr. Henry A. Whitfield was elected to succeed Mr. McIntosh.

Subject: Institute of Government Taxes.

Mr. G.M. Hill appeared before the Board and stated that the Attorney General had rendered an opinion attached herewith stating that since the Institute of Government was conducted as an educational institution for the public benefit, it would not be subject to an ad valorem levy by the Town of Chapel Hill. Upon the motion of Alderman Hobbs and seconded by Alderman Burch, the Board voted to release the 1940 and 1941 ad valorem taxes on the Institute of Government provided the sewer rentals for these years shall be paid first, said release being granted in view of a similar release by Orange County for the same period and upon the opinion of the Attorney General as well as upon the advice of the Town Attorney.

Subject: Police Report.

The clerk read the report of police activities for the month as well as the following letter from Captain Charles D. Farmer of the State Highway Patrol:

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
RALEIGH

HARRY McMULLAN,
ATTORNEY GENERAL

T. W. BRUTON
L. O. GREGORY
GEORGE B. PATTON
ASSISTANT ATTORNEYS GENERAL

WILLIAM W. SPEIGHT
M. B. GILLAM, JR.

24 February 1942

SUBJECT: Taxation; Exemptions; Institute of Government; Albert L. Coates Property

Honorable C. P. Hinshaw
City Attorney
Chapel Hill, North Carolina

Dear Mr. Hinshaw:

Receipt is acknowledged of your letter of February 23, in which you advise that the property occupied by the Institute of Government, building and the grounds surrounding it, is listed for taxation in the name of Albert Coates and that he has a deed for the land putting the title to the property in his name. You advise that the property is assessed for taxation on the tax books in Chapel Hill, but that no taxes have been paid since the building was constructed. You invite my opinion as to whether or not this property is subject to taxation.

The Machinery Act of 1939 provides in Section 600(4) as follows:

"Buildings, with the land actually occupied, wholly devoted to educational purposes, belonging to, actually and exclusively occupied and used for public libraries, colleges, academies, industrial schools, seminaries, or any other institutions of learning, together with such additional adjacent land owned by such libraries and educational institutions as may be reasonably necessary for the convenient use of such buildings, and also buildings thereon used as residences by the officers or instructors of such educational institutions."

We are both thoroughly familiar with the work and activities of the Institute of Government since its inception, and particularly since the acquisition of the property in Chapel Hill on which the building has been constructed. Up until the time the work of the Institute was taken over by the University of North Carolina, Mr. Albert Coates was in exclusive charge of its activities, funds for which were furnished in part by him, but in large part by extensive contributions which he had solicited and received from persons interested in the valuable work which the Institute was carrying on. While the title to the property was in his name, it was charged with the trust for use for the

public benefit as an educational institution. From our own knowledge of the work of the Institute, we know that it was entirely devoted to educational purposes in providing courses of study and training for public officials to enable them to better perform the duties and responsibilities of their offices. The Institute was planned to be a laboratory in which governmental problems could be studied, various hand books issued, and means of training provided so as to enable persons elected to office to have the benefit of experience and training of those officers who were succeeded. In this way it was purposed to provide a continuity of intelligent governmental service in the offices of the various officials of the State.

It is my understanding that no work for profit of Mr. Albert Coates was carried on in the organization and it was not the plan or purpose of the same to make a profit for anyone, but all the income from gifts or service of the Institute was put back in the work which was being carried on.

Under these well known circumstances, I am of the opinion that under Section 600(4) of the Machinery Act above quoted, the real property, together with the building thereon, which is actually and exclusively occupied and used as an institution of learning, is exempt from taxation. It is my understanding that the land was acquired by Mr. Coates for the purpose for which it is now being used and has not been used otherwise.

It is possible, also, that this property would be exempt from taxation under subsection (7) of Section 600, which exempts property beneficially belonging to or held for the benefit of educational institutions or orders where the rent or income from such investment is used exclusively for educational purposes.

In the case of CITY OF JACKSON v. PRESTON, 93 Miss. 366, 21 L. R. A., N. S., 164, it was held that property owned by a private individual and used by him directly and exclusively for educational purposes was exempt from taxation under the Code (1906), Paragraph 4251, paragraph "d," as property belonging to a college or "institution for the education of youth," the statute making no distinction between natural and artificial persons.

In the case of CORPORATION COMMISSION v. CONSTRUCTION COMPANY, 160 N. C. 582, our Court held as exempt from taxation property owned by a private corporation and leased to F. P. Hobgood and used by him for conducting an educational institution. The Court said in the opinion that it

was the character of use of the property rather than the ownership which was controlling and that the Court would look through the form to the substance in passing upon the question. The exempting statute was substantially similar to the one now in effect, except that it required a corporate ownership in order to be exempt. Our present statute makes no distinction between private and corporate ownership.

Our Court said, in the case of ODD FELLOWS v. SWAIN, 217 N. C., at page 638, "the test to be applied in determining the validity of exemptions granted in the provision of the Constitution is the purpose for which the property is held. DAVIS v. SALISBURY, 161 N. C. 56; CORPORATION COMMISSION v. CONSTRUCTION COMPANY, 160 N. C. 582. Note the language is not that the General Assembly may exempt property held by educational, scientific, literary, charitable or religious institutions, but the grant is in respect of property held for one or more of the designated purposes."

With high regards,

Yours very truly,

Harriett Mercer

Attorney General

HM/g

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN HELD IN THE TOWN HALL ON JUNE 10, 1942

Book 6, Page 1021

(COPY)

State of North Carolina
Department of Motor Vehicles
Raleigh
May 15, 1942

Mayor J.M. Foushee
Chapel Hill, North Carolina

Dear Mayor:

In reply to your letter in reference to sending a Patrolman to Chapel Hill, this is to advise that we have been senting Patrolmen to Chapel Hill ever since the Patrol's organization, and owing to the many war activities that are now going on in this State at the present time, we are short of men but we are trying in every way possible to have a man placed in Chapel Hill some time in the near future or when you start the Air Corps training.

I do not know of any incidents when the Patrol hasn't cooperated with your Department and your department hasn't cooperated with the Patrol. In one incident socially but not professionally we have had a little trouble with some of our Patrolmen that have been stationed over there.

Yours very truly,

(Signed) Charles D. Farmer
State Highway Patrol

Subject: Auditor's Report.

Mr. Peacock reported a gasoline average of approximately 20 gallons. He reported that all vouchers were properly supported or authorized by the Board. He reported the budget to be 9% underspent and in good shape, but added that some individual items were overspent. Mr. Peacock reported that the cemetery audit was almost complete and a final report would be given to the Board in the near future.

Subject: Report of Safety Commission.

Alderman Burch of the Public Safety Commission read the Board the following list of recommendations by the Chapel Hill

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN HELD IN THE TOWN HALL ON JUNE 10, 1942

Book 6, Page 1022

Safety League:

(COPY) TO THE TOWN COMMISSIONERS OF CHAPEL HILL

The Chapel Hill Safety League through its executive committee wishes to make the following recommendations to you:

1. That you give serious consideration to placing the police department of Chapel Hill under the town manager. That the police quarters be moved from the little building at the corner to the town hall.

2. That during certain hours each day one of the police officers be used for traffic purposes and be in plain clothes rather than in uniform.

3. That an ordinance be passed clearly defining both the terms parking and double parking and that prohibited parking and double parking be made specific offenses with the penalty named in the ordinance.

4. That a committee from your board be appointed to look into the possibility as well as advisability of a drive from Frank in Street to Cameron Avenue through the grounds of the Elementary School.

5. That some member of your board look into parking regulations on certain narrow streets in the town limits. One such place is Westwood in front of the residence of L.C. MacKinney.

6. That the Business Manager of the University be requested to put on another police officer should conditions require it.

(Signed) J.W. Umstead, Jr.
Paul M. Thompson
George D. Powell
R.W. Foister
A.C. Pendergraft
Grady Pritchard
J.S. Bennett
L.J. Phipps

On recommendations 1, 2, 5, and 6, the Board felt that additional study would be necessary and appropriate action will be taken if and when it is deemed advisable. On recommendation 3, the Board

felt that there was need of such an ordinance and suggested that the Town Attorney make a study of the Town Ordinances to see if such an ordinance had already been enacted. On recommendation 4, the Board agreed that the space between the Fetzer property and the Kappa Sigma Fraternity is only wide enough for pedestrian traffic, and construction of a drive there is inadvisable at the present time. The possibility of a circular drive in this vicinity will be studied in the future.

Subject: Recreation Commission.

Upon motion of Alderman Madry and seconded by Alderman Fitch, the Board voted to incorporate the following memorial in these minutes:

MEMORIAL

COLONEL JOSEPH HYDE PRATT — THE CHAPEL HILL RECREATION COMMISSION

We honor the pioneer. Joseph Hyde Pratt was a pioneer in the field of Recreation. Long a worker with the National Recreation Association, he attended regularly the meetings of the Recreation Congress and participated in its program.

We honor the builder. Joseph Hyde Pratt was always a builder, and the state parks, forests, community centers, and recreational areas in North Carolina bear witness to his workmanship.

We honor the champion of youth. Joseph Hyde Pratt was always close to the youth of Chapel Hill and this area. His leadership in the Boy Scouts of America received national as well as sincere local recognition.

We honor the leader. Joseph Hyde Pratt was the Chairman of Chapel Hill's first Recreation Commission. In this position of leadership he brought the Commission to a significant place in the life of our village.

As we shall always honor him we shall miss his personal relationship but in the spirit of the pioneer, the builder, the champion of youth, and the leader we shall attempt to continue the work he has so dynamically begun and move forward to even broader fields of achievement.

MINUTES OF THE REGULAR MEETING OF THE BOARD OF ALDERMEN HELD IN THE TOWN HALL ON JUNE 10, 1942

Book 6, Page 1024

The Recreation Commission of Chapel Hill shall always find in the life pattern of its first Chairman those sincere characteristics that shall permeate its future actions for a happier and healthier citizenship through wholesome recreational activities.

HAROLD D. MEYER, Acting Chairman
Chapel Hill Recreation Commission

Unanimously voted by the Commission at a session held on Tuesday morning, June the ninth, 1942.

Mayor Foushee, with the approval of the Board, appointed Mr. Herman Schnell to fill the unexpired term of Col. Pratt as a member of the Recreation Commission, and the clerk was instructed to study the minutes and determine the procedure for selection of a new Chairman of the Recreation Commission to replace Col. Pratt.

Subject: Sewer Release for L.L. Garner.

The clerk read a letter from Mr. L.L. Garner requesting a sewer release of $56.90 to compensate him for excess cost in connecting with the town sewer system, this excess being the cost of constructing the line beyond 200 feet. The Board deferred action on his request until the next regular meeting to allow time for studying the manner of handling such releases.

Subject: Battle Park Fire Ordinance.

Upon motion of Alderman Hobbs and seconded by Alderman Maury, the Board voted to adopt the following ordinance:

BE IT ORDAINED BY THE BOARD OF ALDERMEN FOR THE TOWN OF CHAPEL HILL

Section 1. That it shall be unlawful for any person, or persons, to kindle a fire in that section of Chapel Hill known as Battle Park, except in places provided for fires therein, such places being commonly known as furnaces.

Section 2. Any ordinance, or part of ordinance, in conflict

herewith is hereby repealed.

Section 3. Any one violating the terms hereof shall forfeit and pay a penalty of ten dollars.

This the 10th day of June, 1942.

Subject: Resolution with State Highway Commission.

The Board was presented with a proposed resolution from the State Highway Commission regarding the airport road right-of-ways. It was agreed to defer the matter for further study because the commitments were more than the original resolution had provided.

Subject: Bills for Control Center.

The clerk presented the Board with bills incurred in the operation of the Control Center and Ration Board. Action was deferred on the matter until all bills are presented and until the Town Attorney is able to get a ruling from the Attorney General regarding the Town's paying such bills.

Subject: Boundary of Greater School District.

Upon motion of Alderman Fitch and seconded by Alderman Burch, the Board voted to request the School Board to establish and clarify the boundaries of the Greater School District so that all taxes due the schools may be collected.

Subject: Tax Refund.

Upon motion of Alderman Fitch, and seconded by Alderman Hobbs, the Board voted to grant refunds of taxes in the following amounts: Oscar Davis, $2.35; and Edgar Gear $2.25, these amounts having been listed and collected in error.

There being no further business the meeting adjourned.

H. D. Byrd
Town Clerk

HENRY A. WHITFIELD
ATTORNEY AT LAW
CHAPEL HILL, N. C.
TELEPHONE 5251

June 13, 1942.

Mr. H. D. Byrd,
Town Clerk,
Chapel Hill, N. C.

Dear Sir:

This will acknowledge your letter of the 11th informing me of my ellection as Recorder, and also serve as my formal acceptance.

Thanking you, and with good wishes, I am

Very truly yours,

Henry A. Whitfield.

NORTH CAROLINA
ORANGE COUNTY
TOWN OF CHAPEL HILL

The following oaths taken and subscribed before Mae P. Crawford, Notary Public, in said State and County on the 17th day of June, 1942:

I, Henry A. Whitfield, do solemnly swear that I will support the constitution of the United States; so help me, God.

H Emry A Whitfield

I, Henry A. Whitfield, do solemnly and sincerely swear that I will be faithful and bear true allegiance to the state of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the constitution of said state, not inconsistent with the constitution of the United States, to the best of my knowledge and ability; so help me, God.

H Emry A Whitfield

I, Henry A. Whitfield, do solemnly swear that as Recorder of the Recorder's Court of the Town of Chapel Hill, Orange County, North Carolina, in all articles in the commission to me directed, I will do equal right to the poor and rich, to the best of my judgment and according to the laws of the state; I will not, privately or openly, by myself or any other person, be of counsel in any quarrel or suit depending before me; the fines and amercements that shall happen to be made, and the forfeitures that shall be incurred, Iwill cause to be duly entered without concealment; I will not wittingly or willingly take, by myself or by any other person for me, any fee, gift, gratuity or reward whatsoever for any matter or thing by me to be done by virtue of my office, except such fees as are or may be directed and limited by statute; but well and truly I will perform my office of Recorder of the Recorder's Court of the Town of Chapel Hill; I will not delay any person of common right, by reason of any lett r or order from any pers n in authority to me directed, or for any other cause whatever; and if any letter or order come to me contrary to law I will proceed to enforce

the law, such letter or order notwithstanding. I will not direct or cause to be directed to the parties any warrant by me made, but will direct all such warrants to the sheriffs or constables of the county, or other officers or ministers of the state, or other indifferent persons, to do execution thereof; and finally, in all things belonging to my office, during my continuance therein, I will faithfully, truly and justly, and according to the best of my skill and judgment, do equal and impartial justice to the public and to individuals; so help me, God.

H Wm A Whitfield

NORTH CAROLINA
ORANGE COUNTY
TOWN OF CHAPEL HILL

The foregoing oaths of Henry A. Whitfield were duly administered by me this day and were duly sworn to and subscribed in my presence.

Witness my hand and ~~private~~ Notarial seal, this 11th day of June, 1942.

Mae P. Crawford (SEAL)
Notary Public

My com. Expires 2-15-1943

TO THE BOARD OF TOWN COMMISSIONERS OF CHAPEL HILL

The undersigned, F. O. Bowman, representing the Board of Commissioners of Chapel Hill and J. W. Umstead, Jr., representing the University of North Carolina at the request of W. D. Carmichael, Controller, wish to make the following report of a trip made to Raleigh on June 15th for a conference with L. B. Prince, State Highway Commissioner and Charles Ross, Attorney for the State Highway Commission;

After discussing the proposed right of way for the air port road in the limits of the town of Chapel Hill the following was agreed upon:

1. That the town commissioners of Chapel Hill sign the agreement indemnifying the State Highway Commission against loss in the matter of securing said right of way in the town limits.

2. That the State Highway Commission through its representatives make arrangements for and secure said right of way at the lowest possible cost.

3. That the University of North Carolina give to the Board of Commissioners of Chapel Hill a letter agreeing to pay seven thousand dollars of the cost of the said right of way or one half of all the actual cost, should the cost be less then fourteen thousand dollars and that the town of Chapel Hill pay seven thousand dollars or one half the actual cost if right of way cost less than fourteen thousand dollars.

4. That in case the cost exceeds fourteen thousand dollars the balance be charged against the State Highway fund allocated to the town of Chapel Hill provided such fund was not needed for the maintenance of the streets in Chapel Hill.

Frederick O. Bowman

F. O. Bowman

J. W. Umstead Jr.

J. W. Umstead, Jr.

THE UNIVERSITY OF NORTH CAROLINA
CHAPEL HILL

OFFICE OF THE CONTROLLER

June 16, 1942

The Board of Aldermen
Town of Chapel Hill
Chapel Hill, N. C.

Gentlemen:

The University of North Carolina hereby agrees that it will bear one-half of the expense, not to exceed $7,000., in connection with providing within the city limits of Chapel Hill, the designated right-of- way for the proposed new road to the Horace Williams Airport. This agreement is made with the understanding that the Town of Chapel Hill is also to defray one-half of the expense involved in this right-of-way procurement, the Town of Chapel Hill's share not to exceed $7,000.

Sincerely yours,

W. D. Carmichael Jr.

Controller

WDC/c

IN WITNESS WHEREOF, this agreement has been executed in quadruplicate on the part of the said municipality by authority duly given, as evidenced by attached certified copy of resolution, ordinance, or charter provision, as the case may be, authorizing the same on the 16th. day of June 19 48.

MUNICIPALITY OF CHAPEL HILL

BY John R. Sanders
Mayor

ATTEST:

A. D. Boyd
Clerk

AGREEMENT ACCEPTED:

STATE HIGHWAY AND PUBLIC WORKS COMMISSION

BY _____
Chairman

ATTEST:

_____
Secretary

APPROVED AS TO FORM AND LEGALITY

_____
GENERAL COUNSEL, STATE HIGHWAY AND PUBLIC WORKS COMMISSION

NORTH CAROLINA

STATE HIGHWAY AND PUBLIC WORKS COMMISSION

MUNICIPALITY OF **Chapel Hill** IN RE: PROJECT **Co. 324**

COUNTY OF **ORANGE**

WHEREAS, the State Highway and Public Works Commission has prepared plans to make certain street improvements covered by the above referred to project, within the municipality of **Chapel Hill** County of **Orange** consisting of **the construction as relocated of the Airport Road extending from the intersection of North Columbia Street and North Street, station 4+96, to the northern city limit, survey station 16+00. Said construction to consist of a 20' bituminous surface on a 30'-35' graded roadway.**

NOW, THEREFORE, IT IS AGREED as a part of the conditions on which said project is to be recommended, approved, and constructed, that the said municipality will, at its own expense and without any liability whatever of the State Highway and Public Works Commission provide all necessary borrow, rights of way with minimum width of ~~80~~ 100 feet, and such additional widths as may be necessary for the construction of this project, and remove therefrom all obstructions of any kind or character, save the State Highway and Public Works Commission harmless from any and all claims for damages that might arise on account of the construction of this project in accordance with approved plans, and provide for the laying or repairing of any necessary water, sewer, gas, or other pipe lines or conduits, together with all necessary house or lot connections, extending to the outer edge of said project, whether existing or widening streets or sidewalks, for the construction of the above described project.

All such work either to be done or arranged for in a manner satisfactory to the State Highway and Public Works Commission prior to the commencement of the construction of the project herein referred to; and the State Highway and Public Works Commission reserves the right to withhold the awarding of this project until said Commission is furnished satisfactory evidence that all necessary rights of way or other easements have been secured or that said Commission is satisfactorily indemnified against any claims on account thereof.

IT IS UNDERSTOOD AND AGREED that the approval of this project by the State Highway and Public Works Commission is subject to the conditions of this agreement and that no expenditure of funds on the part of the State Highway and Public Works Commission will be made until this agreement has been fully complied with on the part of the said municipality.

P. 1171

Copy of Resolution Passed

by the Board of Commissioners

of the Municipality of

Chapel Hill

North Carolina

The following resolution was offered by Commissioner Bowman and was seconded by Commissioner Burch and upon being put to vote was unanimously carried:

"Whereas, that improvement designated by the State Highway and Public Works Commission as Project Co. 324 is considered to be the most necessary improvement in the highway system in the corporate limits of the said municipality, for the promotion of public safety and convenience:

"Now, therefore, be it resolved that the above Project Co. 324 be and is hereby formally approved by the Board of Commissioners of the said municipality, and that the Mayor and Clerk of the said municipality be and are hereby empowered to sign and execute the required agreements between the said municipality and the State Highway and Public Works Commission."

I, M.D. Byrd Clerk of the Municipality of Chapel Hill, N.C., do certify that the above is a true copy from the minutes of the said municipality. Witness my hand and seal this the 18th. day of June 1942.

M. D. Byrd

Clerk, Municipality of

Chapel Hill, N.C.