

January 6, 1943
Page 172.

The City Council met in regular weekly session at 4 o'clock P. M., Wednesday, January 6, 1943, with Mayor Currie presiding, and Councilmen Albea, Baker, Beasley, Daughtry, Hovis, Painter, Price, Ross and Slye.

Absent: Councilmen Little and Ward.

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REFUND OF CERTAIN STREET ASSESSMENTS AUTHORIZED IF APPROVED BY CITY ATTORNEYS.

Mr. John S. Cansler appeared before the Council, asking for a refund, without prejudice, of street assessments, in the amount of \$155.96, paid through a mistake of facts, on property located at 112-14 E. Hill Street, owned by the Heirs of the late Major J. G. Baird. Mr. Cansler explained that the assessment covered the widening of College Street, the intersecting street, instead of East Hill Street, which he was of the opinion could not be made. He stated that the property is heavily mortgaged and that the present owners have a purchaser for same if all liens on same can be cleared up, and asked that this refund be made.

After hearing Mr. Cansler, Councilman Beasley made a motion that the facts as related by Mr. Cansler be verified and if found to be as stated, that the refund be made, which motion was seconded by Councilman Price, but Councilman Albea made a substitute motion that the refund be made if approved by the City Attorneys, which was seconded by Councilman Ross and unanimously carried.

BURTON SMITH ASKED FOR STRENUOUS MEASURES TO BE TAKEN WITH REGARD TO THE PLACING OF SALT ON THE SIDEWALKS WHEN IT SNOWS.

Mr. Burton Smith stated that in the interest of the conservation of shoe leather, a very precious commodity at this time, that the Council take steps to prevent the pouring of salt on the sidewalks after a snow fall or when the streets are icy. This was referred by the Mayor to the City Manager for report at a later date.

MINUTES APPROVED.

Upon motion made by Councilman Albea, seconded by Councilman Baker, the minutes of the meeting of December 30th. were approved as read.

REFUSE OFFER MADE ON LOT ON WEST FIFTH STREET.

Councilman Ross reported that Mr. Odom Alexander had made an offer of \$750.00 for the lot across from Elmwood Cemetery, on West 5th. Street, owned by the City, but that upon investigation it was found that a 20-inch water main runs right through the middle of this lot and that if it was sold the City would have to retain certain reservations for getting to the water main, and that it was the recommendation of Mr. W. E. Vest, Supt. of the Water Department, that the lot not be sold.

Whereupon, Councilman Ross moved that Mr. Alexander be advised that the City did not care to sell the lot, inasmuch as this water main was on the property. Motion was seconded by Councilman Daughtry and carried.

January 6, 1943
Page 173.

\$150.00 APPROPRIATED FROM EMERGENCY FUND FOR RATION BOARD INCIDENTALS.

Councilman Ross made a motion that \$150.00 be appropriated from the Emergency Fund to take care of certain incidental expenses of the ration board accumulated since September; Mecklenburg County also to pay \$75.00, or one-third of the expense. Motion seconded by Councilman Painter and carried.

RIGHT OF WAY OVER PROPERTY OF E. C. GRIFFITH COMPANY TO BE SECURED, FOR 20" WATER MAIN.

The City Manager reported that work on the 20" water main to the Navy munitions plant is being materially held up due to failure to secure necessary right-of-way through property of E. C. Griffith, and recommended that steps be taken at once to secure this right-of-way, either by mutual agreement or condemnation proceedings.

Councilman Beasley moved that the recommendation of the City Manager in this regard be approved, and that the necessary steps to secure right-of-way by agreement, if possible, if not, by condemnation be taken immediately. Motion seconded by Councilman Baker and carried.

APPROVAL OF INVOICE FOR PRISONERS' MEALS GIVEN.

Upon motion of Councilman Albea, seconded by Councilman Beasley, bill of the Purity Cafe, for furnishing 687 meals to prisoners for the period December 16th through December 31, 1942, in the sum of \$137.40, was ordered paid.

RABIES VACCINATION BILLS AUTHORIZED FOR PAYMENT, IF LEGAL.

Mr. Flack reported that sometime ago a small dog belonging to the Gray family, on Cottage Place, showed evidences of being mad and bit three members of the family; that the dog was taken to the City dog pound for observation, but that through some oversight of the man in charge, the dog was killed before it could be determined whether it had rabies or not, and that it became necessary for these three people to take the rabies treatment, which cost them \$43.26 for the vaccine, as well as \$2. for each treatment, and that he felt that the City should bear the expense of these treatments. At the same time, he reported that the man at the Pound had been cautioned about such practice in the future.

Councilman Price moved that these bills be paid from the Emergency Fund, if legal for the City to do so, and that the parties sign a release of further responsibility on the part of the City. Motion seconded by Councilman Albea and carried.

PROGRESS REPORT MADE ON TRAFFIC SITUATION, AND TRANSPORTATION OF GAS.

Mr. Flack made a progress report on the traffic matter which was referred to him at the last meeting; stating that Mr. Skinner was now busy on same.

He also reported that the committee was working on the question of regulation of transportation of gasoline and other inflammable products within the City, and within the next two weeks would probably have information concerning routings and equipment available, etc. to submit.

See amendment of Jan. 13th. Page 184 re: this action, in approval of minutes.

January 6, 1943

Page 174.

ADDITIONAL WORK ON NEW UNIT AT INCINERATOR AUTHORIZED.

Mr. Flack reported that some additional work had been necessary on the new unit at the incinerator; it being thought at first that the draft would be sufficient, but that it was later learned that it was not and was a smoke hazard. He stated that the work could be handled in the same manner as the demolition job was handled, namely, on the City's own payroll, and asked authority to proceed with the work. This authority was given on motion made by Councilman Albea, duly seconded by Councilman Painter and carried.

SPECIAL OFFICER PERMITS.

Upon motion of Councilman Beasley, seconded by Councilman Ross, John J. Strating was granted a special officer permit at the City's animal shelter.

And on motion of Councilman Beasley, seconded by Councilman Albea and carried, the following men were given special officer permits on the premises of the Quartermaster Depot:

Frank S. Haney
Walter A. Gurley
Thomas E. Collins
Andrew M. Johnson
Charles J. Hammerly

And likewise, on motion of Councilman Beasley, duly seconded by Councilman Albea and carried, the following special officer permit renewals were authorized for the Quartermaster Depot:

Samuel C. Gaillard	John H. O'Kelley
Holman A. Byers	Fred I. Gurley
Horace D. House	Hubert Linker
William N. Knight	Alvin Rankin
Claude Thomas Earnhardt	John H. Bingham
William Hatly	Worth B. Hooper
Richard A. Houser	Raymond C. Calloway
Brice R. Knox	James C. McSwain
James L. Norket	Robert C. Hinson
L. R. Broome	Fred W. Hartness

Horace G. Hart

CEMETERY DEED APPROVED FOR TRANSFER.

On motion made by Councilman Albea, seconded by Councilman Baker, the issuance of a deed to the South Half of Lot No. 34 in Section "BB" Elmwood Cemetery, to J. F. Duncan and wife, Charlye Frye Duncan, was authorized. Price of this lot \$49.00.

RECESS AT 4:48.

A recess was taken by the Council at 4:48 and at 6:20 they again reconvened; the meeting being called to order by the Mayor Pro Tem.

January 6, 1943
Page 175.

CITY TO EMPLOY MR. FRED HELMS AS ATTORNEY TO PREPARE AMENDMENTS TO CHARTER.

Upon return to the Council Chamber, Councilman Ross moved that Attorney Fred Helms be employed to draw up amendments and revisions to the City Charter and submit to the City Council for approval before submitting to the State Legislature for enactment. This motion was seconded by Councilman Baker and carried.

RESOLUTION WITH REGARD TO THE ESTABLISHMENT OF A PART OF SECTION A-a OF ELMWOOD CEMETERY UNDER PERPETUAL CARE.

The following resolution was unanimously adopted upon motion of Councilman Hovis, seconded by Councilman Ross:

BE IT RESOLVED that a part of Elmwood Cemetery, to-wit: that southerly portion of Elmwood Cemetery designated Section A-a, comprising lots No. 24 to No. 60, inclusive, bounded on the south by a wire fence, the right-of-way line of the Southern Railway Company, on the North by the northerly edge of an 8-foot walk, which is 20 feet southerly as measured from the southerly edge of an existing curved cemetery drive, on the west by the northerly edge of West Sixth Street and the east edge of the Cemetery entrance driveway crossing a culvert, and on the East by the grounds and driveway space of the Elmwood Cemetery office, which space extends approximately 50 feet southwesterly from the rear of the office building; all as shown on a map filed E-K-1, in the City Engineer's office, Charlotte, N. C., to which reference is hereby made, be laid out by the City Manager as being solely in perpetual care. The lots contained in this section shall be sold only as perpetual care lots, at the price of sixty (60¢) cents per square foot, of which prive thirty-five (35¢) cents shall be considered as the general purchase price of the lot, and twenty-five (25¢) cents as the charge for perpetual care.

RESOLUTION RELATING TO THE REMOVAL OF STREET CAR RAILS.

The City Manager reported that Mr. English S. DesChamps, Jr., District Chief of the Special Projects Salvage Branch of the War Production Board, had been in communication with him pertaining to the removal of street car rails from the City streets. He stated that Mr. DesChamps advised him that two methods were available for the acquisition by the Federal Government of said rails.

One method was for the City to rescind the previous resolutions which had been adopted, and in lieu thereof, adopt a resolution according to a form submitted by the Government, and in connection therewith execute a bill of sale according to a form submitted by the Government, and attach to said bill of sale a statement from the City Attorney on a form submitted by the Government; that if this procedure were followed, the City could retain the right to agree upon the specifications which would be followed for the removal of the rails and for the repair of the streets; that these specifications would also be subject to the approval of the State Highway and Public Works Commission, with headquarters at Raleigh, North Carolina, which Commission has assumed the expense of, and is finally responsible for, the maintenance of a substantial number of streets designated in "Exhibit B", which would be annexed to the resolution; that the specifications could also require that whoever did the work would have to procure and furnish to the City a Public Liability Policy in a Company

January 6, 1943
Page 176.

approved by the City Manager, and in a form approved by the City Attorney, insuring the City against liability for property and personal injury damages on account of the aforesaid work, with limits of not less than \$5,000.00 for property damage in one accident, and not less than \$20,000.00 for injuries to one person in one accident, and not less than \$40,000.00 for all persons who may be injured in one accident, such policy to be delivered to the City Manager and kept in force until final completion of the work without cost to the City; the specifications could also provide that the City Engineer shall supervise the work to the extent of seeing that the plans and specifications are followed, but that War Materials, Inc., or whomsoever it directs or contracts with to do the work, shall be in charge of the manner and method of doing the work according to the said plans and specifications, and shall also be in charge of employing and discharging the persons doing the work, and should be responsible for seeing that the work was done in a careful manner and in accordance with all the requirements of law, and would at all times maintain proper barricades to protect the public, and, after sundown and throughout the night, would guard properly with warning lights the work and all barricades and material; that said specifications could also set forth such other desirable and proper requirements as may seem fit.

If the above procedure should not be followed, then the other alternative which Mr. DesChamps offered was for the Federal Government to requisition the rails under its power of eminent domain; that if this method were followed, the Government would follow a stereotyped routine and the specifications for removing the rails and repairing the streets would not be subject to the approval of the City, and the City would have no control of said specifications or right to make any suggestions concerning same.

The City Manager stated that in view of this situation, and after due consideration of each method, he recommended the first method.

The City Manager pointed out that if the first method should be followed, the bill of sale provided for the City to convey the rails, and that this raised the question as to how the City claimed ownership of the rails. In this connection he pointed out that prior to October 1937, these rails constituted a part of the transportation system within the City of Charlotte, which was operated and maintained by the Duke Power Company. Under date of October 20, 1937, Duke Power Company entered into an agreement with the City of Charlotte whereby Duke Power Company abandoned said rails and was relieved of any further duty to maintain the tracks and those portions of the streets in the City where said rails were laid. In consideration of this agreement, the Duke Power Company paid to the City of Charlotte \$20,000.00 to be used by the City to pave the surface of the streets over the top of said rails. Pursuant to this agreement, the Duke Power Company instituted a motor bus system of transportation, and has claimed no further interest in said rails. In fact, the Duke Power Company, through Mr. E. C. Marshall, Vice President, under date of July 29, 1942, wrote Mr. Tillett, the City Attorney, and stated that the Duke Power Company makes no claim to any title or interest in any of the streetcar track rail now located in any of the streets of Charlotte, and so far as the Power Company is concerned, the City is free to make such disposition of this rail as it may see fit. This letter is on file in the City Clerk's office, along with the agreement above mentioned, dated October 20, 1937.

Based upon this abandonment and authorization, the City now claims title to the rails and should be able to authorize the execution of the bill of sale requested by the Federal Government.

Thereupon, the following resolution was submitted and upon motion of Councilman Hovis, seconded by Councilman Beasley, was unanimously adopted:

January 6, 1943
Page 177.

RESOLUTION RELATING TO THE REMOVAL
OF STREET CAR RAILS.

WHEREAS, the City Council adopted a resolution on the 12th day of August, 1942, relating to the removal of street car rails for certain named streets in the City, therein setting forth the conditions upon which the City's consent for such removal was based, and, whereas, the representative of the War Production Board has advised the City that said resolution is not acceptable to the Government in its present form.

NOW, THEREFORE, BE IT RESOLVED: That the resolution heretofore adopted on August 12, 1942, entitled "Resolution Relating to Removal of Street Car Rails" be, and the same hereby is, rescinded.

WHEREAS, the City of Charlotte is the owner of certain street car rails, track fastenings, and other metallic track material lying in the streets of said City; which are shown on Exhibits "A" and "B" annexed hereto; and

WHEREAS, said rails, track fastenings, and other metallic track materials are vitally necessary to the prosecution of the present war; and

WHEREAS, the City desires as a contribution to the war effort to make said rails, track fastenings, and other metallic track material immediately available for war use;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Mayor and the City Clerk be, and they hereby are, authorized, on behalf of the City, to convey title to said rails, track fastenings and other metallic track material to War Materials, Inc., Agent for Metals Reserve Company, by bill of sale, the form of which has been presented to the City Council and is hereby approved.

2. War Materials, Inc., Agent for Metals Reserve Company, be and it hereby is, given permission, itself or through others, to remove the above said rails, track fastenings, and other metallic track material, and for that purpose to disturb the pavement in the streets where said rails are located. Provided, however, that as a condition precedent to any work of removing said rails and other material, specifications and agreements thereto attached, mutually acceptable to War Materials, Inc., Agent as aforesaid, and to the City Engineer of the City of Charlotte, and the State Highway and Public Works Commission of the State of North Carolina, with headquarters at Raleigh, North Carolina, must be prepared and thereafter the work of both removing the rails and other material and refilling the slots shall be carried out in accordance with said specifications and agreements thereto attached.

Any place in the pavement which is disturbed by removing the rails and other material shall be repaired and reopened for the movement of traffic within not less than ten days from the time the work at said particular place was commenced.

3. Any and all liability of any nature whatsoever of War Materials, Inc., as Agent, shall cease and terminate unless claim shall be made in writing to War Materials, Inc., by the City Engineer within thirty days after written notice of completion of work has been given to said City Engineer by War Materials, Inc.

January 6, 1943
Page 178.

STREETS FROM WHICH RAILS MAY BE
REMOVED.

Exhibit "A".

Hawthorne Lane	-	Elizabeth Ave. to E. 7th St.
Pegram Street	-	Belmont Avenue to Parkwood Ave.
Boundary Street	-	McDowell St. to Alexander St.
East First Street	-	Alexander St. to Brevard St.
Brevard Street	-	First St. to E. Trade St.
N. Davidson Street	-	East Trade St. to E. 5th St.
East 7th Street	-	Davidson to Brevard St.
N. Caldwell Street	-	36th St. to Old City Limits.
N. Brevard Street	-	E. 7th St. to E. 12th St.
N. Davidson Street	-	E. 11th. St. to E. 9th St.
East 9th Street	-	Davidson St. to Myers St.
North Myers Street	-	E. 9th St. to E. Trade St.
E. 11th Street	-	College St. to Railroad.
N. College Street	-	Phiifer St. to 13th St.
13th Street	-	Tryon to College St.
12th Street	-	Church St. east to New Pavement.
North Church Street	-	10th St. to 12th St.
North Pine Street	-	10th St. to 11th. St.
11th Street	-	Graham St. to Pine St.
Mint Street	-	4th St. to Stonewall St. - 1 track.
Mint Street	-	Trade St. to 4th St.
Mint Street	-	Hill St. to Winona St.
Bland Street	-	Mint St. to Tryon St.
East 1st. Street	-	Tryon St. to Church St.
Dilworth Road	-	McDowell St. to Mt. Vernon Ave.
Dilworth Road	-	Mt. Vernon Ave. to Berkley Ave.
Berkley Avenue	-	Dilworth Road to Myrtle Ave.
Myrtle Avenue	-	Berkley Ave. to Mt. Vernon Ave.
Mt. Vernon Avenue	-	Myrtle Ave. to Dilworth Road
East Boulevard	-	S. Boulevard to Dilworth Road West
East Boulevard	-	Dilworth Rd. West to Dilworth Rd. East

Exhibit "B".

Elizabeth Avenue	-	McDowell St. to Hawthorne Lane
East Trade Street	-	Caldwell St. to McDowell St.
East 7th Street	-	Hawthorne Lane to near Clarice Ave.
Hawthorne Lane	-	Elizabeth Ave. to Queens Road
McDowell Street	-	Elizabeth Ave. to E. 7th St.
East 7th Street	-	McDowell St. to Central Ave.
Central Avenue	-	East 7th St. to Louise Ave.
Central Avenue	-	Louise Ave. to Plaza
S. McDowell Street	-	Elizabeth Ave. to Boundary St.
West Trade Street	-	Graham St. to Sycamore St.
West Trade Street	-	Sycamore St. to Summit Ave.
West Trade Street	-	Summit Ave. to Tuckaseege Rd.
South Tryon Street	-	Morehead St. to Bland St.
Morehead Street	-	Tryon St. to McDowell St.
South Boulevard	-	Morehead St. to E. Boulevard
East Trade Street	-	Caldwell St. to Tryon St.
Alexander Street	-	Boundary St. to First St.
East 11th Street	-	Brevard St. to Davidson St.
North Tryon Street	-	Trade St. to 11th St.
North Tryon Street	-	12th. to 11th St.

January 6, 1945
Page 179.

West Trade Street	-	Tryon St. to Graham St.
West Trade Street	-	Tuckaseege Rd. to Martin St.
Beatties Ford Road	-	Martin St. to Dixon St.
Beatties Ford Road	-	Dixon St. to Booker St.
South Tryon Street	-	Trade St. to Morehead St.
Dilworth Rd. West	-	E. Boulevard to Dilworth Road East
Dilworth Rd. East	-	E. Boulevard to Dilworth Road West.

ADJOURNMENT.

On motion made by Councilman Baker, duly seconded by Councilman Beasley, the meeting then adjourned.

Alice B. McConnell
City Clerk