

March 11, 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, March 11, 1953, at 4 o'clock p.m., with Mayor Shaw presiding and Councilmen Albea, Baxter, Boyd, Coddington, Dellinger and Van Every present.

#### INVOCATION.

The invocation was given by Councilman Claude L. Albea.

#### MINUTES APPROVED.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the minutes of the regular meeting on March 4, 1953, were approved as submitted.

KEY TO CITY OF GRAND RAPIDS, MICHIGAN PRESENTED TO MAYOR SHAW BY MR. PAUL GUTHERY ON BEHALF OF MAYOR GOEBEL.

Mr. Paul Guthery advised that while in Grand Rapids, Michigan last week to explain our local slum clearance program, he acted as "unofficial ambassador" for the City of Charlotte and presented Mayor Goebel with a Key to the City of Charlotte, and Mayor Goebel returned the gesture and sent a Key to the City of Grand Rapids to Mayor Shaw with his compliments. Mr. Guthery presented the Key to Mayor Shaw, who expressed his appreciation, and that of the City Council, to Mr. Guthery for the splendid service he is rendering to Charlotte as a representative of the slum clearance program and as a civic leader.

APPROPRIATION FOR 378TH ENGINEERS, N. C. NATIONAL GUARD, RESTORED AND FUNDS TRANSFERRED FROM EMERGENCY FUND FOR LAST QUARTER OF PRESENT FISCAL YEAR.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the Council restored the appropriation of \$1,800.00 per annum for the 378th Engineers, North Carolina National Guard, and authorized the transfer of \$450.00 from the Emergency Fund (Code 110) to cover payment to them for the last quarter of the present fiscal year.

RESOLUTION PROVIDING FOR A PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE ZONING ORDINANCE TO CHANGE THE ZONING FROM RESIDENCE-2 TO INDUSTRIAL ON FOUR LOTS AT 1302-22 SEIGLE AVENUE.

An ordinance entitled: "An Ordinance (No. 171) Amending the Zoning Ordinance of the City of Charlotte" to change the Building Zone Map from R-2 to Industrial on four lots at 1302-22 Seigle Avenue, which was not approved by the Zoning Board of Adjustment upon petition of Mr. J. C. Griffin, was introduced. Following the reading thereof, a resolution entitled: "Resolution Providing for a Public Hearing on the Ordinance Amending the Zoning Ordinance, on April 1, 1953," was presented and read. Councilman Boyd moved the adoption of the resolution, which was seconded by Councilman Coddington, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 67.

ORDINANCE (NO. 172) AMENDING THE BUILDING CODE RAISING ALLOWABLE LIMIT FOR BUILDINGS ERRECTED WITHOUT THE SERVICES OF AN ARCHITECT, FROM \$15,000 to \$20,000.

An ordinance entitled: "Ordinance (No. 172) Amending the Building Code Raising the Allowable Limit for Buildings Erected without the Services of an Architect from \$15,000 to \$20,000", was introduced and read. Upon motion of Councilman Van Every, seconded by Councilman Baxter, and unanimously carried, the ordinance was adopted. The ordinance is recorded in full in Ordinance Book 11, at Page 295.

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RESOLUTION RELATIVE TO PLACING FOOTINGS UNDER SIDEWALK ADJACENT TO BUILDING OF SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY ON NORTH CALDWELL STREET.

A resolution entitled: "Resolution Relative to Placing Footings Under Sidewalk Adjacent to Building of Southern Bell Telephone & Telegraph Company on North Caldwell Street", was passed on its final reading, having been first read and adopted at the meeting on March 4, 1953. Councilman Dellinger moved the adoption of the resolution, which was seconded by Councilman Baxter, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 64.

The Agreement with the Southern Bell Telephone and Telegraph Company is as follows:

"NORTH CAROLINA  
MECKLENBURG COUNTY

THIS AGREEMENT, Made and entered into this 11th day of March, 1953, by and between the CITY OF CHARLOTTE, a municipal corporation of the State of North Carolina (hereinafter referred to as the CITY), party of the first part, and SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY, hereinafter referred to as OWNER, party of the second part;

W I T N E S S E T H:

The City Council of the City of Charlotte at two regular meetings of said Council duly passed resolutions as set forth in Minute Book 34 at pages 435 and 444, authorizing this agreement to be entered into, granting a special privilege to the Owner of property located on the easterly side of North Caldwell Street, to excavate under the sidewalk immediately adjacent to said property for the purpose of placing footings thereunder, and to use said excavated space for said purpose.

This special privilege is granted upon the following conditions, which are agreed to by the property owner as conditions precedent to the initial and continued exercise of such privilege:

(1) The special privilege for the construction and maintenance of said excavated space shall be revocable at the will of the Governing Body of the City, at any time, with or without any cause whatsoever, and in the event said special privilege is revoked, then said excavation shall be filled in promptly in accordance with the specifications of, and in a manner satisfactory to, the City, and said sidewalk shall be restored in accordance with the specifications of, and in a manner satisfactory to, the City.

(2) The plan and method of excavating and maintaining the excavated space shall be submitted to and be subject to the approval of the City.

(3) During the existence of said excavated space and for a period of three years after the filling in of same, in case of revocation of this special privilege, as hereinabove provided, the owner agrees:

(a) Continuously to maintain the sidewalk over said excavated space in a manner satisfactory to the City and to indemnify and save harmless the City from any and all claims of any nature whatsoever, due directly or indirectly to the property owner's failure to do this, including but not limited to claims on account of storm drainage and on account of injury to persons or property which may arise against the City, whether justified or unjustified, and whether directly or indirectly due to the granting of this special privilege;

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- (b) To indemnify and save harmless the City from any and all costs of investigating such claims and/or defending such claims in court or otherwise;
- (c) To record this agreement in the Office of the Register of Deeds for Mecklenburg County, North Carolina, and to furnish the City with the recorded copy.

IN TESTIMONY WHEREOF, this instrument has been duly executed, the day and year first above written, by the parties hereto and their seals hereto affixed.

ATTEST:

CITY OF CHARLOTTE

\_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Mayor

ATTEST:

SOUTHERN BELL TELEPHONE & TELEGRAPH  
CO.

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
President

Approved as to form:

\_\_\_\_\_  
John D. Shaw  
City Attorney "

**PURCHASE OF RIGHT-OF-WAY AT 327-29 WEST FLINT STREET FROM LEE A STOWE FOR EXTENSION OF WEST FIFTH STREET.**

Upon motion of Councilman Coddington, seconded by Councilman Boyd, and unanimously carried, the purchase of Lots No. 327-29 West Flint Street was authorized from Mr. Lee A. Stowe at a price of \$2,500.00, for right-of-way for the extension of West Fifth Street.

**CONTRACTS AUTHORIZED WITH JONES & CLARKSON AND McARN & GWYNN COMPANY FOR THE CONSTRUCTION OF WATER MAINS.**

Motion was made by Councilman Boyd, seconded by Councilman Baxter, and unanimously carried, authorizing contracts for the construction of water mains, as follows:

- (a) Contract with Jones & Clarkson, for the construction of 570 feet of mains in the York Road Park Subdivision, outside the city, at an estimated cost of \$741.00, to serve residential property on Baxter Road. All costs to be borne by the applicant, who will dedicate the main to the City upon completion.
- (b) Contract with McArn & Gwynn Company, for the construction of 2,185-feet of main and a fire hydrant in Bonaire Retreat Subdivision, at an estimated cost of \$4,139.00, to serve residential property inside the city. The City to finance all cost and applicant will guarantee a gross annual water revenue equal to 10% of the total cost.

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CONSTRUCTION OF SANITARY SEWER MAINS AND TRUNK LINE AUTHORIZED IN BONAIRE RETREAT SUBDIVISION AND IN JEFFERSON DAVIS STREET.

Upon motion of Councilman Baxter, seconded by Councilman Dellinger, and unanimously carried, the construction of new sanitary sewer mains and trunk line was authorized as follows:

- (a) Construction of 1,196-feet of 8-inch sewer main and trunk line in Bonaire Retreat Subdivision, at an estimated cost of \$2,690.00, to serve residential property. All costs to be borne by the City and applicant will deposit the full amount, to be refunded as per terms of the contract.
- (b) Construction of 590-feet of 8-inch sewer main and trunk line in Jefferson Davis Street, at an estimated cost of \$1,410.00, to serve three family units and 8 vacant lots. All costs to be borne by the City and applicant's deposit of \$460.00 to be refunded as per terms of the contract.

CONSTRUCTION OF DRIVEWAY ENTRANCES APPROVED.

Councilman Coddington moved that the construction of One 10-ft. driveway entrance at 1332 Beatty's Ford Road, and One 15-ft. entrance at 200 West 11th Street, be approved. The motion was seconded by Councilman Van Every, and unanimously carried.

RENEWAL OF SPECIAL OFFICER PERMITS TO LESTER GIBBARD AND THOMAS L. QUERY.

Upon motion of Councilman Van Every, seconded by Councilman Coddington, and unanimously carried, Special Officer Permits were authorized renewed for one year as follows:

- (a) Renewal of Permit to Mr. Lester Gibbard, 1717 Union Street, for use on the premises of Whiting Machine Works, Dowd Road.
- (b) Renewal of Permit to Mr. Thomas L. Query, 2448 Greenland Avenue, for use on the premises of A & P Tea Company Warehouse, Cedar and Hill Streets.

TRANSFER OF CEMETERY LOT.

Councilman Dellinger moved that the Mayor and City Clerk be authorized to execute a deed with Mr. Charles A. Jordan for the transfer of Lot 303, in Section 4-A of Evergreen Cemetery, at a cost of \$81.90. The motion was seconded by Councilman Van Every, and unanimously carried.

CONSTRUCTION OF CURB AND GUTTER IN FRONT OF Y.M.C.A. BUILDING ON NORTH CALDWELL STREET AUTHORIZED.

Councilman Baxter moved that curb and gutter be constructed in front of the Y. M. C. A. Building on North Caldwell Street, at an estimated cost of \$2,400.00, and that the cost be charged against Powell Act Funds. The motion was seconded by Councilman Albea, and unanimously carried.

RESOLUTION REQUESTING THE MECKLENBURG DELEGATION TO THE GENERAL ASSEMBLY NOT TO PASS A PROPOSED BILL CHANGING THE METHOD OF OPERATION OF THE CHARLOTTE PARK AND RECREATION COMMISSION.

Councilman Baxter stated that he understands from the newspapers that Senator McIntyre has introduced a Bill in the General Assembly making the office of Commissioners of the Park and Recreation Commission elective by the citizens of Charlotte; that in his opinion the present method of the City Council selecting the Commissioners should not be changed. He introduced a resolution to that effect and moved its adoption, the resolution is entitled: "Resolution Requesting the Mecklenburg Delegation

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To The General Assembly Not To Pass a Proposed Bill Changing the Method of Operation of the Charlotte Park and Recreation Commission". Councilman Coddington stated he thought the Commissioners should be appointed by the Council, however, he felt the inequities in their employees salaries and those of the City should be corrected and that their purchases should be made by the City where a savings would be realized. Councilman Albea stated that he feels that it should remain as it is and keep the Commission out of politics. The motion for the adoption of the resolution was seconded by Councilman Albea, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 68.

STATUS OF SURVEY AND MAPS OF SELWYN AVENUE IMPROVEMENTS REQUESTED AT NEXT COUNCIL MEETING.

Councilman Boyd requested the City Manager to advise the Council at its next meeting when the survey and maps of the proposed street improvements to Selwyn Avenue will be ready, in order that they may be gone over with the residents of the street, as requested by them, at the earliest possible date.

DUKE POWER COMPANY REQUESTED TO REPORT ON THEIR OPERATIONS DURING THE SIX MONTHS TRIAL PERIOD.

Councilman Boyd stated that according to the records of the Council the six months trial period granted Duke Power Company on September 3, 1952, to limit their schedules and service has expired, and he would like them officially advised that the service on Charlotte Drive and adjacent area, as stated to the Council by Mr. John Newitt, attorney representing the residents of the section, are unsatisfactory. In the discussion, Councilman Baxter stated that in his opinion the Power Company officials should make a report to the Council on their six months operation. Councilman Van Every expressed his opinion that this should be done. Councilman Boyd then moved that the Council, through the proper channels, officially request that the Duke Power Company make a report to the Council on the figures on their operations during the six months trial period, and that they do so within the next two weeks. The motion was seconded by Councilman Albea, and unanimously carried.

CITY ATTORNEY REQUESTED TO GIVE RULING ON LEGALITY OF COUNCIL INCREASING CITY'S CONTRIBUTION TO THE RETIREMENT SYSTEMS OF THE POLICEMEN AND GENERAL CITY EMPLOYEES.

Councilman Boyd stated that now that the City Council has requested the Legislature to amend the Charlotte Firemen's Retirement Fund Act so as to authorize the Council to increase the City's contribution to that Fund by 5 percent, and since it was agreed that the Council would increase the City's contribution to its policemen and to the general city employees, he moved that the City's contribution to the Police Retirement System be increased 5 percent and to the General City Employees Retirement System be increased 2.38 percent, if and when the Legislature amends the Firemen's Retirement Act to increase their contributions 5 percent, in order to equalize the City's contribution to all of its employees. The motion was seconded by Councilman Baxter.

Councilman Coddington stated that the Legislature has set up retirement funds for every department of the city government and as the Policemen and Firemen are subject to greater hazards than general office employees, they receive more benefits through earlier retirement. That, if it is legal to do so, he is willing to increase the benefits to the 180 men in the Police Department who did not previously go under the system.

Councilman Van Every stated that with the proposed increase of 5 percent to the Firemen, their Fund will still be short \$88,000 annually after the two years period, in order for it to be sound. That he, too, thinks that all employees should be treated alike but that Councilman Boyd's proposal should be given consideration and not be acted on hurriedly.

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Councilman Boyd stated that the increase to policemen and general city employees will at least go into a solvent fund; that he thinks it only fair to treat all employees alike and it is his desire that the employees — garbage collectors, policemen, stenographers, clerks, department heads and everyone realize this.

Mr. John D. Shaw, City Attorney, advised that as he understands the motion, it will appropriate funds conditioned upon the action of somebody else. If the Legislature changes the Firemen's Fund Act it will be alright, but he thinks the proposal is premature.

Councilman Boyd replied that he thinks it is the duty of the Council to straighten out the retirement systems of the employees, and the only way is to be fair and equal to everyone. However, in view of the City Attorney's remarks he will withdraw his motion today and request the City Attorney to give the Council a definite ruling at next week's meeting as to the legality of the Council making the contributions to the Police and General Employees Retirement Systems.

At the request of Councilman Dellinger, the City Manager was requested to advise the Council at the meeting next week the cost of increasing the contributions as proposed by Councilman Boyd.

CITY ATTORNEY ASKED TO EXPLAIN WHY PROVISOS IN AMENDMENT TO FIREMEN'S RETIREMENT SYSTEM ACT REQUESTED OMITTED.

Councilman Boyd stated that in the letter from Mr. Francis Clarkson to Senator McIntyre relative to Councilman Coddington's motion to increase the contribution to the Firemen's Retirement System, he states that in drafting the amendments to the Firemen's Retirement Act, Mr. John Shaw, City Attorney suggests that the provisos regarding the firemen's agreement to adjust at the end of two years to an age limit not to exceed age 58 and benefits within 10% of present benefits, not be included in the Bill since that is an agreement between the City Council and the firemen themselves.

Mr. Shaw, City Attorney, stated that is correct, as that portion of the resolution is being put into effect for only two years, and is between the Council and firemen and does not belong in the Act; however, if the Council so wishes he will call Senator McIntyre and have it included.

Councilman Coddington expressed the opinion that it should be included as it is part of the resolution that was adopted.

Councilman Boyd stated that the resolution was adopted by reason of the inclusion of this provision.

No action was taken by the Council and the matter was left in its present status.

ADJOURNMENT.

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

*Lillian R. Hoffmann*  
 City Clerk