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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Wednesday, November 3, 1954, at 4 o'clock p.m., with Mayor Van Every presiding, and Councilmen Albea, Baxter, Boyd, Dellinger and Wilkinson, present.

Absent: Councilmen Brown and Smith,

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Wilkinson, seconded by Councilman Baxter, and unanimously carried, the minutes of the last meeting on October 27th were approved as submitted.

ORDINANCE NO. 241 AMENDING ZONING ORDINANCE CHANGING ZONING FROM B-1 TO B-2 ON PROPERTY AT 1429-31 SOUTH BOULEVARD, ADOPTED.

The scheduled hearing was held in connection with the proposed Ordinance to amend the Zoning Ordinance by changing the zoning from B-1 to B-2 on property at 1429-31 South Boulevard, upon petition of The Cornelius Company, and recommended by the Zoning Board of Adjustment. No objections to the proposed change were voiced; thereupon, Councilman Albea moved the adoption of the ordinance, which was seconded by Councilman Dellinger, and unanimously carried. The ordinance is recorded in full in Ordinance Book 11, at Page 385.

ORDINANCE NO. 238-X ASSESSING BENEFITS IN THE IMPROVEMENT DISTRICT ON MARLOWE AVENUE, FROM COLUMBUS CIRCLE TO GREENE STREET, AND AUTHORIZING THE ADVERTISEMENT WITH RESPECT THERETO, ADOPTED.

The hearing continued from October 6th relative to the benefits assessed in the improvement district on Marlowe Avenue, from Columbus Circle to Greene Street, was held.

Mr. D. W. Flowe filed objections to the assessment against his property, stating he feels it is unjust to make any assessment against this property; that he told the City's real estate representative who contacted him with regard to selling a right-of-way for the street that he did not care to sell at any price, that the land was serving his purpose; however, he offered him \$2,000.00 for the property. That the residents of the area urged him to allow the right-of-way so that the street could be used by school children and shorten the distance for them to walk to school and he was told if he would give the right-of-way that no assessment for the street improvement would be made against his property by the City; that the City Engineer came out and told him the Council had passed on constructing the street and they were ready to cut the street. That since the street was constructed he has put in several side streets, giving the residents access to their lots.

Mr. C. W. Kelly stated he understands his assessment is only \$50.00; that he does not object to the amount but his property was definitely not improved, that the street was cut so close to his residence that it is now only 5 feet from the street, and it is extremely difficult to get into his garage; also, that the marker indicating his property line was placed in the center of the sidewalk.

Councilman Wilkinson stated that in view of the fact that Mr. Flowe was under the definite impression that there would be no assessment and since he gave the right-of-way for the street, and in view of the fact that he was offered \$2,000.00 by the City's representative securing the right-of-way, he moved that \$2,000.00 be deducted from his total assessment. The motion was seconded by Councilman Baxter, and unanimously carried.

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The ordinance assessing benefits was then introduced and read. Councilman Wilkinson moved the adoption of the ordinance, which was seconded by Councilman Dellinger, and unanimously carried. The ordinance is recorded in full in Ordinance Book 11, at Pages 386-387.

Mr. Flowe stated he thinks the reduction in the assessment stated by Mr. Wilkinson is very fair and had he intended to subdivide his property the \$2,000.00 would be in order, but since he was not going to subdivide it and wanted to use it in his business, he does not feel he should be assessed anything and he protests it.

COUNCILMAN BAXTER ABSENT FOR REMAINDER OF SESSION.

Councilman Baxter left the meeting at this time to go out of the city and was absent for the remainder of the session.

HEARING IN CONNECTION WITH BENEFITS ASSESSED IN THE IMPROVEMENT DISTRICT ON WEST FIFTH STREET CONTINUED TO MEETING ON NOVEMBER 17th, AT 4 O'CLOCK P.M.

The hearing continued from October 6th, was held in connection with the benefits assessed in the improvement district on West Fifth Street, from North Cedar Street to West Trade Street.

Mr. Ben Horack, Attorney representing the J. C. Brookshire Estate, owners of property near the corner of Andrill Terrace and West Fifth Street, stated the property consists of three units of four apartments each. That prior to the improvement it was in a quiet residential area, and today it is on a thoroughfare where the traffic has increased - he stated the records in the office of the Traffic Engineer show that in May, prior to the improvement, approximately 5,000 cars moved over the street in one day, and the October 1st count was 11,300 cars. That the question now is, has the property been benefitted and if so to what extent? Should everyone in Charlotte pay for these thoroughfares or should the owners of property abutting on the street pay for them? He called attention that the property owners on 36th Street were not assessed for the improvements. It was pointed out by Councilman Boyd that the 36th Street improvement was financed with Powell Act Funds, and no assessments can be made when these funds are used. Mayor Van Every stated that no Powell Act Funds were available for the 5th Street improvement and Bond Funds were used. Councilman Boyd pointed out that the City Charter requires the Council to appoint appraisers of benefits and/or damages, and to fix the assessments; however, it also provides that in the event the property owners are dissatisfied with the assessments, they have recourse through the courts. Mr. Horack replied that this is true, but the law also gives the City Council the right to mitigate any assessment. Councilman Dellinger called attention to the fact that the Brookshire Estate was paid for the right-of-way. Mr. Horack replied that the matter of whether one was paid for right-of-way or not, should not enter into the assessment. That the Council by resolution authorized the purchase of the right-of-way and the alternative was to go to court. That the property owners only received value for the land they gave up, and the question now is not relative to that transaction, but a matter of benefit to the property. That the property was used by the Brookshires as rental property for the income, and now the noise from the thoroughfare has forced the reduction in rents and also vacated some of the property, thereby reducing that income. That the net result is that when a thoroughfare is constructed, in fairness to the property owners, the cost should be spread all over the city.

Mr. Lawrence G. Hunter, Jr. protested the assessment against his property at 1012 West 5th Street, stating that instead of being benefitted, he was damaged.

Mrs. Jennie Taylor spoke regarding the family property, in the name of R. L. Douglas at 118 Martin Street; she stated they were paid \$16,000.00 for the right-of-way as they had to turn the house around, which cost them \$7,000.00, and now it will cost at least \$5,000.00 to save the house from being undermined from the deep cuts on both Martin Street and 5th Street. Mayor Van Every stated that the appraisers took both the cuts and moving the house into consideration in the price for the right-of-way.

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Mr. L. B. Washington, 1516-18 West 5th Street, stated his house was left 5½ feet above the street level; that the walk and driveway was destroyed in the improvement and not replaced. He spoke in behalf of J. J. Adam and wife, 311 Flint Street, stating the street is now within three feet of their house and the noise and vibrations are terrific. That the house of Octavia B. Tucker, 315 Flint Street is deteriorating because of the plaster and ceilings cracking caused by the impact of the traffic, and that her house was left some 7 feet above the street level. That Lee A. Stowe, 327 Flint Street and C. H. Shute Estate, 1736 W. Trade Street are experiencing the same deterioration of their homes. He asked if it is fair that these people, who were not benefitted in any way, should be assessed for the so-called improvements.

Mr. Martin Walters spoke with regard to the property of his mother, Mrs. Sara Keesler Walters, at 1324 West 5th Street, stating he is in accord with the point brought out by Mr. Horack, that an assessment of this nature is based primarily on the increased benefits that have accrued to the property and, in turn, is dependent upon the increased utility to which the property may be put. He stated his mother's property is on the steep grade up from Irwin Creek, that it is in an R-2 zone and consists of two houses, and no business would be interested in locating on so steep a grade. That she was paid approximately \$3,000.00 for the right-of-way, and it has been intimated that the amount paid, under forced negotiations, has something to do with the amount of assessment; however, it appears to him that the value to be set for the assessment is dependent upon the increased value and is not relevant to the amount received for right-of-way.

Mrs. Stowe spoke with regard to the property of her mother, Mrs. Hattie L. Solomon at 834 West 5th Street, stating she was given \$3,500.00 for the right-of-way but Mr. Dulin, negotiator for the City, stated later that he did not realize the property would be cut down as it was and the house left 7-feet above the street level.

Mr. E. J. Fox, 818 and 821 West 5th Street, stated he had both a residence and business on his property; that the street was raised about 2 feet and the entire block drains onto his property; that the drain was formerly in the street but is now in the corner of his driveway and the business building has cracked half an inch wide. That he was paid \$3,500.00 for the right-of-way, which did not include removal of the drain from the street onto his property. That he has had four tenants in the property since the improvement was made, because of the noise. That the property has not benefitted at all and he does not believe he could sell the property for nearly the same amount as he could have prior to the improvement.

Mr. F. J. Anderson, 1009 West 5th Street, stated the property owners in the 1000 block are having difficulty getting in and out of their driveways. That he reiterates all of his statements made in this connection at prior Council Meetings.

Dr. J. D. Martin, 1608 West 5th Street, stated that the hole left in his back yard would make a nice size swimming pool; that he would rather live on Highway 29 than where he is because of the noise and vibration.

Mr. Seabrom Way, 235 Flint Street, asked if the assessment was made to get back some of that which the City gave him for what they bought from him, or for the benefit to the property? That he was not benefitted as his house is 12 feet above the street level in front and 7 feet in the rear.

Mayor Van Every stated that the Appraisers advised him in his office that the properties that were left above the street level were given consideration in the right-of-way price.

Mrs. F. J. Anderson stated they noticed that no assessment was made against some of the property owners and they would like to know why? Councilman Dellinger stated that the property she refers to does not front on the improved street, that the City owns a small piece of property, shown on old maps as a street, between the street and present property owner, and assessments cannot be made on property that does not join the improved area.

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Mrs. Anderson then asked why the improvement was not made with State or Federal funds, since the street is used for interstate commerce? Mayor Van Every explained that it is a local improvement and not a state highway.

Mr. C. B. Nash spoke regarding the property of A. T. Withrow, at 1121-25 West 5th Street, stating they had not been able to sell the property and it would be necessary to sell it at a sacrifice in order to pay the assessment.

Mr. M. N. Morris, 125 Irwin Avenue, stated he had an apartment house at 1001-07 West 5th Street against which an assessment was made. That he is now unable to keep it rented because of the noise from the traffic.

The following ordinance assessing the benefits was then presented and read:

"AN ORDINANCE NO. 237-X ASSESSING
BENEFITS IN THE IMPROVEMENT DISTRICT
ON WEST FIFTH STREET FROM NORTH CEDAR
STREET TO WEST TRADE STREET AND
AUTHORIZING ADVERTISEMENT WITH RESPECT
THERE TO.

Section 1. It appears that the total frontage in the West Fifth Street Improvement District, extending from North Cedar Street to West Trade Street is 6,415.86 feet, (See Assessment Map on file with the City Clerk), and that the total cost of said improvement is \$380,283.82. That, the cost per front foot of said improvement, being one-half of the cost per foot, is \$59,272, and that the benefit assessments made by the Appraisers, heretofore appointed in connection with said improvement, total \$48,974.55, and are less than one-half of the cost of such improvement, using the cost per front foot rule, over the improvement area.

Section 2. That, the following benefits are hereby assessed against the property hereinafter set forth:

NORTH SIDE OF WEST FIFTH STREET BETWEEN NORTH
CEDAR AND WEST TRADE STREETS

NORTH CEDAR STREET

<u>OWNER</u>	<u>PROPERTY</u>	<u>BENEFIT</u>
<u>North Cedar Street</u>		
Mrs. John D. Pettus	90.74'	\$ 752.78
Rachel F. Chastain & Husband	49.82'	413.30
B. F. Hager & Wife	49.36'	409.49
Edith G. Autry & Husband	49.86'	413.64
Walter H. Davey & Wife	55.65'	461.68
Hattie L. Solomon	241.18'	2,502.48
<u>North Clarkson Street</u>		
Margaret Barton Alexander	55.00'	224.84
N. E. Hildreth	44.00'	339.48
John W. Sheppard	33.00'	254.60
Isabel I. Graham (widow)	68.16'	525.87
H. Morrison Irwin, Jr. & wife	88.14'	680.02
<u>Irwin Avenue</u>		
Trustees of West Avenue		
Presbyterian Church	155.00'	0.00
Lawrence G. Hunter, Jr. & Wife	56.00'	0.00
Vera Waldrop	55.00'	0.00
J. C. Springs, Jr.	52.00'	0.00
Elizabeth I. Burn	75.00'	0.00

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<u>OWNER</u>	<u>PROPERTY</u>	<u>BENEFIT</u>
<u>Sycamore Street</u>		
W. F. Cochrane	90.00'	\$ 0.00
H. W. Hunter & Wife	65.00'	0.00
E. P. Warren & Wife	56.00'	0.00
Mrs. Isabel I. Graham	52.00'	0.00
Mrs. Isabel I. Graham	52.00'	0.00
Mrs. Isabel I. Graham	75.00'	0.00
Mrs. A. T. Graham	(at bridge) 21.00'	0.00
<u>Irwin Creek</u>		
P. & N. Railway Company	308.40'	\$2,895.30
<u>Andrill Terrace</u>		
J. C. Brookshire Estate	155.26'	\$1,028.81
J. C. Brookshire Estate	124.81'	1,164.85
City of Charlotte	23.20'	7.50
K. M. Waters & Wife	78.80'	784.46
<u>North Summit Avenue</u>		
City of Charlotte	104.50'	\$ 100.00
Delia Parks (widow)	20.69'	115.85
City of Charlotte	31.77'	10.00
Julia S. Arey (widow)	81.07'	428.75
<u>Frazier Avenue</u>		
Vivian S. Washington & Husband	34.55'	\$ 304.53
<u>West Flint Street</u>		
J. J. Adam & Wife	55.50'	\$ 247.20
J. J. Adam & Wife	57.03'	419.89
Octavia B. Tucker	55.03'	430.17
L. B. Washington & Wife	53.04'	453.94
Sadie D. Moore & Husband	52.59'	494.63
Lee A. Stowe	53.60'	515.67
J. Dwight Martin, Jr.	56.06'	549.92
W. E. Hill Estate	63.73'	589.63
R. L. Douglas Estate	92.12'	567.40
R. L. Douglas Estate	63.83'	189.59
<u>Martin Street</u>		
Johnson C. Smith University	191.37'	\$1,984.50

SOUTH SIDE OF WEST FIFTH STREET, BETWEEN N. CEDAR AND
W. TRADE STREETS

<u>OWNER</u>	<u>PROPERTY</u>	<u>BENEFIT</u>
<u>North Cedar Street</u>		
A. Josphehs & Wife	146.43'	\$1,017.96
Sara A. & Rebecca Kirschbaum	54.49'	565.39
E. Jerry Fox & wife	45.65'	473.67
E. Jerry Fox & wife	49.95'	518.28
C. R. Willman & wife	117.89'	880.72
<u>North Clarkson Street</u>		
Charles E. Bloom, Jr.	150.27'	\$1,442.26
Nomey J. Kour	49.98'	414.88
A. Josephs & wife	56.97'	472.62
J. D. Auten	145.08'	830.47
<u>Irwin Avenue</u>		
M. N. Morris & wife	100.00'	0.00
F. J. Anderson & wife	55.00'	0.00
James Pascute & wife	56.00'	0.00
Alice J. Prevette	52.00'	0.00
Sara Strause	52.00'	0.00
J. W. Fowler & wife	75.00'	0.00

<u>OWNER</u>	<u>PROPERTY</u>	<u>BENEFIT</u>
<u>Sycamore Street</u>		
John W. Sheppard	155.00'	\$ 0.00
A. A. Beam & wife	56.00'	0.00
Panos Dismadouros	51.99'	0.00
A. T. Withrow & wife	125.10'	0.00
<u>Irwin Creek</u>		
P. & N. Railway Company	333.48'	\$3,458.18
<u>Andrill Terrace</u>		
Mrs. Jean Furr Valladingham	93.24'	744.50
City of Charlotte	3.96'	10.00
<u>North Summit Avenue</u>		
City of Charlotte	83.34'	100.00
<u>Frazier Avenue</u>		
City of Charlotte	161.73'	200.00
<u>Flint Street</u>		
Seabrom Way & wife	28.12'	166.21
<u>(Old) West Fifth Street</u>		
T. L. Gunn & wife	68.47'	393.57
T. L. Gunn & wife	58.41'	327.08
St. Andrews Presbyterian Church	55.82'	578.85
Octavia B. Tucker	54.37'	287.54
L. B. Washington & wife	52.55'	245.22
City of Charlotte	52.87'	125.00
G. M. Beaty	56.17'	728.52
G. M. Beaty	56.98'	739.03
H. L. McCrorey	59.35'	769.76
C. H. Shute Estate	65.90'	854.72
Fannie I. & Danetta M. Sanders	121.44'	1,575.07
<u>Martin Street</u>		
City of Charlotte	34.00'	125.00

Section 3. That, a copy of this Ordinance shall be published in The Charlotte Observer, a newspaper of general circulation in the City of Charlotte,

Section 4. That, the aforementioned owners are hereby notified of the assessment of such assessment,

Section 5. Unless such owners, within fifteen days after such publication should give written notice to the City Council that such owners make an appeal to the next Term of Superior Court of Mecklenburg County and within five days thereafter serve the City Manager with a written statement of the facts upon which such owner bases his appeal, such assessment shall be final. "

Councilman Dellinger stated that he realizes these people have been down here several times in this connection; however, the Council has worked long hours trying to arrive at a fair and legal conclusion in the matter and he would prefer settling the matter today but in view of the fact that three of the Councilmen are absent, he feels it should be deferred for one week; therefore, he moved that the hearing be continued until 4 o'clock on November 10th and the Council meet at 2:30 o'clock on next Wednesday in the Mayor's office and discuss the matter further and that a decision be made at the formal Council meeting at 4 o'clock. The motion was seconded by Councilman Wilkinson, and unanimously carried.

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REQUEST OF DELEGATION FROM SANITARY DIVISION TO DISCUSS SALARY INCREASES, ETC. DEFERRED.

A delegation of employees of the City Sanitary Division was present with Mr. O. W. Barriér as spokesman with regard to their requested salary increase and five-day work week. Mayor Van Every advised that the City Manager, who is ill, has prepared his recommendations with regard to these matters and will present it to the Council upon his return to his office. Mr. Barriér stated they had two other matters they wished to discuss and would be present at next week's meeting.

ORDINANCE NO. 242 AMENDING THE CITY CODE CHANGING THE SPEED LIMIT OF TRAINS.

An ordinance entitled: "Ordinance No. 242 Amending the City Code Changing the Speed Limit of Trains" was introduced and read. Councilman Dellinger moved the adoption of the ordinance, which was seconded by Councilman Albea, and unanimously carried. The ordinance is recorded in full in Ordinance Book 11, at Page 388.

LOCATION OF STORAGE WAREHOUSE AND OFFICE AT 151 ATANDO AVENUE BY CHARLOTTE STORAGE & FURNITURE COMPANY APPROVED.

Upon motion of Councilman Dellinger, seconded by Councilman Wilkinson, and unanimously carried, the Charlotte Storage & Furniture Company was authorized to locate a storage warehouse and office at 151 Atando Avenue, in an Industrial Zone.

APPOINTMENT OF COLEMAN W. ROBERTS AS SPECIAL LICENSE CLERK TO HANDLE SALE OF 1955 CITY AUTO TAGS.

Motion was made by Councilman Dellinger, seconded by Councilman Albea, and unanimously carried, appointing Mr. Coleman W. Roberts as Special License Clerk to handle the sale of the 1955 City of Charlotte auto license tags, for one year beginning December 1, 1954, at a fixed compensation of 10 cents per tag.

CONSTRUCTION OF SANITARY SEWER MAIN IN BANCROFT STREET APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, the construction of 143 feet of sanitary sewer main in Bancroft Street, to serve one family unit and one vacant lot, at an estimated cost of \$200.00, to be paid by the City, was authorized.

CONTRACT FOR WATER METERS AND METER YOKES AWARDED.

Motion was made by Councilman Wilkinson, seconded by Councilman Albea and unanimously carried, awarding contract to Hersey Manufacturing Company, for 1,500 - 5/8" Water Meters, without bushings, as specified, on a unit price basis, representing a total net delivered price of \$31,650.00, and contract to Ford Meter Box Co. for 1,500 No. 209-U Meter Yokes, on a unit price basis, for a total net delivered price of \$5,685.00.

SALE OF TWENTY AIRPORT BUILDINGS TO A. T. WITHROW.

Upon motion of Councilman Dellinger, seconded by Councilman Wilkinson and unanimously carried, the sale of twenty buildings at Douglas Municipal Airport, as specified, was authorized to A. T. Withrow, at his bid price of \$4,818.80.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Motion was made by Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, authorizing the construction of driveway entrances at the following locations:

- (a) One 10½-ft. driveway at 912 East 3rd Street.
- (b) One 30-ft. driveway at 902 East Trade Street.
- (c) One 30 ft. driveway at 904 East Trade Street.
- (d) One 30-ft. driveway on South Tryon St, and One 35-ft. driveway on Palmer Street, both for 1124 South Tryon Street.
- (e) Extension of a 16-ft. driveway to 19-ft. and construction of a 35-ft. additional driveway, both at 112 South College St.

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ISSUANCE OF SPECIAL OFFICER PERMIT TO HENRY D. POWERS AUTHORIZED.

Upon motion of Councilman Wilkinson, seconded by Councilman Albea, and unanimously carried, the issuance of a Special Officer Permit to Henry D. Powers for use on the premises of Southern Railway Company was authorized.

HOLIDAYS GRANTED CITY EMPLOYEES ON NOVEMBER 11TH AND 25TH IN OBSERVANCE OF ARMISTICE DAY AND THANKSGIVING DAY.

Councilman Albea moved that the usual holidays be granted city employees on November 11th, in observance of Armistic Day, and on November 25th in observance of Thanksgiving Day. The motion was seconded by Councilman Dellinger and unanimously carried.

LEASE OF AIRPORT BUILDING REPORTED.

The City Manager reported that the lease of Airport Building No. 70 to Advertising Productions Corp. has been concluded, for a period of one year beginning October 1, 1954, at a monthly rental of \$50.00.

TRANSFER OF CEMETERY LOT.

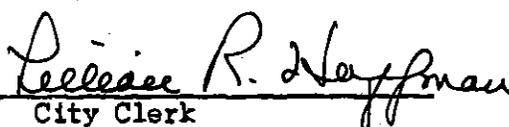
Upon motion of Councilman Wilkinson, seconded by Councilman Dellinger and unanimously carried, the Mayor and City Clerk were authorized to execute a deed with Mrs. Vera C. Vanderburgh for the transfer of the east part of Lot 9, Section A-Annex, at Elmwood Cemetery, from the present owner Mrs. Helen P. Ketchie and husband, at a cost of \$1.00 for the transfer deed.

HEARING IN REGARD TO REQUEST OF CANNON AIRCRAFT TO LEASE AIRPORT PROPERTY FOR LOCATION OF FIXED BASE OPERATION DEFERRED UNTIL NOVEMBER 17th.

Councilman Dellinger moved that the hearing in regard to the request of Cannon Aircraft to lease property at the Airport for the location of a fixed base operation be deferred until November 17th. The motion was seconded by Councilman Albea, and unanimously carried.

ADJOURNMENT.

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


City Clerk