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A regular meeting of the City Council was held in the Council Chamber, City Hall, at 11 o'clock a.m. on Wednesday, November 9, 1949, with Mayor Shaw presiding and Councilmen Aitken, Albea, Boyd, Coddington, Daughtry, Jordan and Wilkinson present.

INVOCATION.

The invocation was given by Dr. W. L. Halberstadt.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Jordan and unanimously passed, the Minutes of the last meeting were approved as submitted.

ORDINANCE (NO. 80) AMENDING THE ZONING ORDINANCE ADOPTED.

Pursuant to the introduction on October 19, 1949, of an Ordinance entitled "Ordinance No. 80 to Amend Chapter No. 21 of the City Code With Respect to the Zoning Ordinance" to change the building zone map from R2 to Industrial District property located on the south side of Rozzells Ferry Road and the adoption of Resolution providing for a public hearing thereon on November 9, 1949, at 11 o'clock a.m. the Mayor advised that interested persons would now be heard.

No objections to the proposed change were voiced, whereupon Councilman Daughtry moved the adoption of the Ordinance, motion was seconded by Councilman Wilkinson and the Ordinance was unanimously adopted. Ordinance is recorded in full in Ordinance Book 11 at page 83.

DELEGATION IN PROTEST OF YOUTH RECREATION BUILDING IN LATTA PARK.

Mr. W. J. Nivens, as spokesman for his Committee, stated that the residents surrounding Latta Park were very much concerned over the establishment of a Community Building in Latta Park; saying that when they built their homes they were advised that these lots were restricted to resident purposes only and that the Park and Recreation Commission were attempting to do what the City would not allow an individual to do; that no one would be allowed to build a Skating Rink in that area and that they did not think the Park and Recreation Commission should be allowed to commercialize and do what private citizens would not be allowed to do.

He stated that they were very much concerned for the safety of the children in crossing the streets due to the heavy traffic and that there was no place to park automobiles except in the street.

Mr. A. B. Hoppe, Mr. James A. Bell, and others, supported the contentions of Mr. Nivens.

Dr. W. L. Halberstadt, Chairman of the Charlotte Park and Recreation Commission, replied, stating that he was surprised and that he was unaware of any objections until last night and that the Superintendent and all of his Board Members were out of the City attending a Recreation Meeting in Raleigh but upon their return they would be glad to meet with the citizens of the community and go over the plan for the building and what they proposed to do.

Mr. A. B. Hoppe, speaking for the Delegation after Mr. Niven's departure, stated that the adjoining property owners would be glad to meet with the Park and Recreation Commission at a date to be set by them and the Park and Recreation Commission to go into the matter further.

PETITION EMPLOYMENT OF DISABLED OR HANDICAPPED VETERANS IN LIEU OF WOMEN FOR CHECKING PARKING METER VIOLATIONS.

Mr. Harry Northrop, Commander Hornets Nest Post No. 9 American Legion, stated that his Post had voted unanimously to petition the Council to use Disabled or handicapped veterans in lieu of women for checking parking meter violations. He called the Council's attention to the fact that these men were injured through no fault of their own in rendering a service to their country and each and every citizen. He then introduced Mr. B. L. McCafferty, Chairman Mecklenburg Employ the Physically Handicapped Committee. Mr. McCafferty explained

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that a check had been made and there were 25 or 30 veterans who were handicapped only to the extent that they experienced difficulty in getting employment with corporations due to management stating that it would increase their insurance rate, and other similar objections, but that he felt that this handicap would not impair usefulness to perform this duty, and called the Council's attention to their opportunity to be among the first, if not the first, to so employ disabled or handicapped veterans.

Mr. W. C. Timmons, Past Commander of Hornets Nest Post American Legion, and Mr. Marshall Hickman, of Marshall Ney Post VFW, also spoke on behalf of the employment of disabled veterans.

Mayor Shaw stated this matter had been given consideration by the members of the Council.

PETITION FOR TRAFFIC LIGHT AT INTERSECTION OF ELEVENTH AND CALDWELL STREETS.

A delegation petitioned the Council to have a traffic light installed at Eleventh and Caldwell Streets for the safety of children and old people in crossing the said intersection.

Mayor Shaw asked the delegation if they thought it would help the traffic condition to move the light from Eleventh and Davidson Streets to Eleventh and Caldwell Streets. One member of the delegation stated that light was placed at Eleventh and Davidson Streets when the Bus turned at that intersection but that the bus no longer turned there as it now turned at Eleventh and Caldwell Streets and that he believed that this would remedy the situation.

Upon inquiry from the Mayor, City Manager Yancey stated that if the light was installed at Eleventh and Davidson for the reason as explained, the switching of the light to Eleventh and Caldwell Streets might remedy the situation.

Mayor Shaw promised the delegation that a traffic light would be installed at Eleventh and Caldwell Streets.

AN OFFER OF \$6,000.00 FOR PROPERTY AT 113-15 SOUTH BREVARD STREET.

Mr. Frank F. Jones appeared before the City Council and made an offer of \$6,000.00 for the property located at 113-15 South Brevard Street acquired by the City of Charlotte through tax foreclosure. He stated that his client would give this amount for the property even though there was a cloud on the title.

Councilman Alba moved that the offer be taken under consideration, which was seconded by Councilman Wilkinson and passed unanimously.

ORDINANCE (NO. 82) TO AMEND ZONING ORDINANCE INTRODUCED AND RESOLUTION PROVIDING FOR PUBLIC HEARING THEREON ADOPTED.

An Ordinance entitled "Ordinance (No. 82) Amending Chapter #21 of the City Code with Respect to Zoning Ordinance," to change from R1 to B1 district on a vacant lot located at the corner of Pecan Avenue and Independence Boulevard was introduced. Following the reading thereof a Resolution entitled "Resolution Providing For A Public Hearing on a Proposed Amendment to the Zoning Ordinance" setting the date of Hearing on November 30, 1949, was presented and read.

Councilman Daughtry moved the adoption of the Resolution, motion was seconded by Councilman Wilkinson and unanimously carried. Resolution is recorded in full in Resolution Book 1 at page 214.

ORDINANCE (NO. 83) TO AMEND ZONING ORDINANCE INTRODUCED AND RESOLUTION PROVIDING FOR PUBLIC HEARING THEREON ADOPTED.

An Ordinance entitled "Ordinance (No. 83) Amending Chapter 21 of the City Code with Respect to Zoning Ordinance" to change the Building Zone Map from Residence-2 to Business-1 on the four corner lots adjacent to the intersection of South Tryon Street Extension and West Boulevard was introduced. Following the reading thereof a Resolution entitled "Resolution Providing For A Public Hearing on a Proposed Amendment to the Zoning Ordinance" setting the date of Hearing on November 30, 1949, was presented and read.

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Motion was made by Councilman Jordan that the Resolution be adopted, this was seconded by Councilman Albea and passed unanimously. Resolution is recorded in full in Resolution Book 1 at Page 215.

ORDINANCE (NO. 84) TO AMEND ZONING ORDINANCE INTRODUCED AND RESOLUTION PROVIDING FOR PUBLIC HEARING THEREON ADOPTED.

An Ordinance entitled "Ordinance (No. 84) Amending Chapter 21 of the City Code With Respect to Zoning Ordinance" to change the Building Zone Map from R-1 to R-2 on the Rockledge Apartment Property, consisting of approximately 3½ acres, on Roswell Avenue and Normandy Road, and adjoining the Myers Park Country Club was introduced. Following the reading thereof, a Resolution entitled "Resolution Providing For A Public Hearing on a Proposed Amendment to the Zoning Ordinance" setting the date of Hearing on November 30, 1949, was presented and read.

Councilman Jordan moved the adoption of the Resolution, motion was seconded by Councilman Aitken and passed unanimously. Resolution is recorded in full in Resolution Book 1 at page 216.

ORDINANCE (NO. 85) AMENDING THE CITY CODE WITH RESPECT TO EXCAVATION AND CONSTRUCTION OF ENTRANCES.

An Ordinance entitled "An Ordinance Amending the City Code With Respect to the Rules and Regulations Governing Excavation and Construction of Entrances", was introduced and read. Councilman Aitken moved the adoption of the Ordinance, motion was seconded by Councilman Albea and unanimously carried. Ordinance is recorded in full in Ordinance Book 11 at page 84.

RESOLUTION PROVIDING FOR THE EMPLOYMENT OF FEMALE METER CHECKERS.

A Resolution entitled "Resolution Authorizing the Employment of Female Meter Checkers" was presented and read. Councilman Coddington moved the adoption of the resolution, which was seconded by Councilman Aitken.

Councilman Boyd introduced a substitute motion to amend the Resolution by striking out the words "12 females" in line 11 and inserting in lieu thereof the following: "12 persons, 6 of whom shall be men with preference given to disabled war veterans, and 6 of whom shall be women with preference given to those who served in the Armed Services during the last war, or to those who have close kin who are disabled veterans," which was seconded by Councilman Albea.

The Mayor called for vote on substitute motion, which did not carry. The voting was as follows:

For: Councilmen Boyd and Albea.
Against: Councilmen Daughtry, Wilkinson, Aitken, Coddington and Jordan.

Councilman Boyd then introduced another substitute motion to amend the Resolution by striking out the words "between 21 and 30" in line 24, to which there was no second.

The Mayor then called for vote on the original Resolution, which was carried as follows:

For: Councilmen Daughtry, Wilkinson, Aitken, Jordan, Albea and Coddington.
Against: Councilman Boyd.

SECOND READING RESOLUTION WITH REGARD TO EXCAVATION UNDER ARLINGTON AVENUE AND AGREEMENT WITH ATLANTIC REFINING COMPANY WITH REFERENCE TO SAID EXCAVATION.

Resolution entitled "Resolution With Regard to Excavation Under Arlington Avenue Adjacent to Lance Packing Company Property" was introduced for second reading. Councilman Daughtry moved that the Resolution be adopted and that the Mayor and City Clerk be authorized to sign Agreement with Atlantic Refining Company, said Agreement to be copied in the Minutes, motion was seconded by Councilman Coddington and passed unanimously.

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NORTH CAROLINA

MECKLENBURG COUNTY

THIS AGREEMENT, made and entered into this _____ day of November, 1949, 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 one part, and THE ATLANTIC REFINING COMPANY, hereinafter referred to as owner, whether one or more persons or corporations, party of the other 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 1 at Page 211, authorizing this agreement to be entered into granting a special privilege to the Owner to excavate and install under the street a six thousand (6000) gallon gasoline tank and to use said excavated space for such purpose, the same being more particularly described as follows:

A space on the southerly side of Arlington Avenue extending into Arlington Avenue 14 ft. and having a width of 8ft. at a point 237 ft. west of the southwesterly corner of Arlington Avenue and South Boulevard.

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 street 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 street 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;
 - (b) To indemnify and save harmless the City from any and all costs of investigating such claims and/or defending 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, N. C., and to furnish the City with the recorded copy;
 - (d) To furnish the City a bond in the amount of \$1,000.00, with a corporation authorized to do business in the State of North Carolina, as surety, said bond to be conditioned upon compliance by the present or any subsequent owner of said property with each and all of the conditions set forth and contained in this agreement.

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4. It is understood and agreed between the parties hereto, that Lance, Inc. is the party for whose benefit such gasoline tank is being installed and that, Lance, Inc. will withdraw gasoline from said tank for its own uses, and it is made a condition of this agreement that Lance, Inc. shall cause an endorsement in favor of the City of Charlotte to be affixed to the Public Liability Policy of Lance, Inc. so as to protect the City of Charlotte with respect to any liability that may be incurred by the City because of Lance, Inc's operation of said gasoline tank; AND, FURTHER, that such endorsement upon such Public Liability Policy shall not vary or modify the agreement of owner, as set forth in paragraph (3) above.

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 Clerk

Approved as to form:

City Attorney

THE CITY OF CHARLOTTE

By _____
Mayor

ATLANTIC REFINING COMPANY

By _____
President

ATTEST:

Secretary

NORTH CAROLINA

MECKLENBURG COUNTY

This _____ day of November, 1949, personall came before me, _____, a Notary Public for said County, Victor Shaw, who, being duly sworn, says that he is the Mayor of the City of Charlotte, and that seal affixed to the annexed instrument in writing is the corporate seal of the City, and that said writing was signed and sealed by him in behalf of said municipal corporation by its authority duly given. And the said Victor Shaw acknowledged the said writing to be the act and deed of said municipal corporation.

WITNESS my hand and notarial seal.

Notary Public

My commission espire:

NORTH CAROLINA

MECKLENBURG COUNTY

This _____ day of November, 1949, personally came before me, _____, a Notary Public for said County, _____, who being duly sworn, says that he is _____ of The Atlantic Refining Company, and that the seal affixed to the annexed instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said _____ acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal.

Notary Public

My commission espire:

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NORTH CAROLINA

MECKLENBURG COUNTY

BOND

KNOW ALL MEN BY THESE PRESENTS That we, The Atlantic Refining Company, as property owner and principal, and _____ a corporation duly organized and duly authorized to act as surety in the State of North Carolina, as surety, are firmly bound by these presents to the City of Charlotte, N. C., a municipal corporation of the State of North Carolina, in the sum of \$1,000.00, for the payment of which we bind ourselves, our heirs, successors and assigns, firmly by these present.

SIGNED with their names and sealed with their seals, the ____ day of November, 1949.

The condition of this obligation is such that whereas the above named Atlantic Refining Company, as property owner, has procured a special privilege to be granted for the excavation of certain space underneath a street in the City of Charlotte adjacent to said property owner's property, and to use said excavated space upon certain conditions as set forth and contained in an agreement entered into between said property owner and the City of Charlotte, which agreement is hereto attached and made a part hereof.

NOW, THEREFORE, if the said property owner and all subsequent property owners of said property comply fully with each and all of the conditions set forth in said agreement, then this obligation shall be void, otherwise to remain in full force and effect.

And the said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder, shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work.

THE ATLANTIC REFINING COMPANY

By _____
Owner

ATTEST:

By _____
Attorney in Fact

APPOINTMENT OF MR. COLEMAN W. ROBERTS AS SPECIAL LICENSE CLERK.

Councilman Jordan moved the appointment of Mr. Coleman W. Roberts as Special License Clerk to handle the sale of 1950 City Automobile License Tags for a term of one year, beginning December 1, 1949, with a fixed compensation of 10 cents per tag; motion seconded by Councilman Daughtry and passed unanimously.

GRANT RIGHT-OF-WAY TO DUKE POWER COMPANY.

Councilman Jordan moved the approval of agreement between the City of Charlotte and Duke Power Company granting said company right-of-way over tracts of land adjacent to the Oakdale Reservoir, off Mt. Holly Road, for constructing a power transmission line, and the Mayor and City Clerk be authorized to sign the agreement. Motion was seconded by Councilman Wilkinson and passed unanimously.

APPLICATION TO THE STATE BOARD OF HEALTH FOR APPROVAL OF PLANS FOR NEW SUGAW CREEK OUTFALL SEWER.

Councilman Albea moved that the Mayor and City Clerk be authorized to execute an application to the State Board of Health for approval of plans for the new Sugaw Creek Outfall Sewer from Princeton Avenue to the existing Sugaw Creek Sewage Treatment Plant, which was seconded by Councilman Coddington and passed unanimously.

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APPROVAL OF AN OVER-RUN OF \$3,577.36 IN THE CONSTRUCTION OF IRWIN CREEK
OUTFALL SEWER EXTENSION.

The City Manager reported an over-run of \$3,577.36 in the construction of Irwin Creek Outfall Sewer extension to the Double Oaks Apartment Project, due to excess of solid rock, Councilman Albea moved the approval of this over-run and was seconded by Councilman Coddington. Motion carried unanimously.

CONSTRUCTION OF NEW SANITARY SEWERS.

Upon motion by Councilman Wilkinson, seconded by Councilman Jordan and unanimously carried, the construction of new Sanitary Sewers in the following locations was authorized:

- (a) Contract with Nivens Investment Co., Inc. for the construction of 1192 feet 8" Trunk Line and 1980 feet 8" sewer main, in City, Park View Haven Trunk Sewer from Park Road School trunk west to Park Road; mains in Park Road from Trunk north 900 feet; Haven Drive from trunk north 1080 feet, to serve five houses already started and 25 vacant lots, at a total estimated cost of \$8,540.00. Entire cost will be borne by the City, and applicant's deposit of \$6,540.00 to be refunded in accordance with terms of the contract.
- (b) Request of James M. Hesser, 1932 Marguerite Avenue, for the construction of 173 feet 8" trunk and 1,136 feet of 8" sewer main in Country Club Drive from 12" Outfall Sewer 173 feet to end of Country Club Drive thence 1136 feet to Matheson Avenue, to serve 18 houses already built, at an estimated cost of \$3,420.00. All cost to be borne by the City.

AUTHORIZE TRANSFERS FROM EMERGENCY FUND.

Councilman Jordan moved that \$2500.00 be transferred from the Emergency Fund, Code 110 to Special Appropriations Code 109 for equipment for Charlotte Spastic Hospital. Motion was seconded by Councilman Daughtry and passed unanimously.

Councilman Daughtry moved that \$1000.00 be transferred from Code 110, Emergency Appropriations, to Code 109 Special Appropriations for deferring expenses of the Auditorium Committee. Motion was seconded by Councilman Wilkinson and passed unanimously.

CONSTRUCTION OF WATER MAINS.

Upon motion of Councilman Wilkinson, seconded by Councilman Jordan and unanimously carried, construction of Water Main was approved as follows:

Contract with J. M. Wallace for the construction of 3900 feet of 6-inch C. I. Water Main and three fire hydrants in Echo Hills Sub-division between Independence Boulevard and Monroe Road at an estimated cost of \$8,250.00. Cost of construction of mains will be borne by the applicant.

CONTRACT AWARDED MICHAELS ART BRONZE COMPANY FOR 19 PARKING METERS.

Motion was made by Councilman Albea, seconded by Councilman Jordan and passed unanimously, authorizing the award of a contract to the Michaels Art Bronze Company, for 19 90-minute parking meters, at a price of \$51.50 each, representing a total of \$978.50.

SPECIAL OFFICER PERMIT FOR M. J. IRBY.

Councilman Albea moved the renewal of Special Officer Permit for M. J. Irby be authorized, to serve on the premises of Guthery Apartments effective November 16, 1949. Motion was seconded by Councilman Jordan and passed unanimously.

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HOLIDAY NOVEMBER 11th.

Councilman Albea moved that City employees be granted a Holiday on November 11th in observance of Armistic Day. Motion seconded by Councilman Jordan and passed unanimously.

CEMETERY DEEDS TRANSFERRED.

Upon motion of Councilman Wilkinson, seconded by Councilman Jordan and unanimously carried, the Mayor and City Clerk were authorized to execute deed for transfer of the following Cemetery Lots:

Deed to Mrs. Ruth C. Brooke for Lot 370 in Section 3, Evergreen Cemetery at \$140.40.

ADJOURNMENT.

Upon motion of Councilman Aitken, seconded by Councilman Coddington and unanimously passed, the meeting was adjourned.

Deputy City Clerk