

SPECIAL MEETING.
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A special meeting of the City Council was held in the Council Chamber, City Hall, at 11:00 A. M., on Thursday, October 18, 1945, due notice having been delivered to each Councilman as required by law. Mayor Baxter presided, and the following Councilmen were present: Messrs. Childs, Hinson, Johnston, McIntyre, Newson, Puette and White.

PURPOSE OF MEETING.

Mayor Baxter announced that the purpose of the meeting was to consider the transfer of title to property located at 111, 113, 115 and 117 North Poplar Street to the Veterans' Recreation Authority, and to consider such other matters as may be presented.

ADOPTION OF RESOLUTION PROVIDING FOR THE EXTENSION OF SEWERS, CONDEMNATING RIGHT-OF-WAY OVER SAID LAND NECESSARY FOR SUCH EXTENSION.

The following resolution was read, and, Councilman White moved its adoption. Motion seconded by Councilman McIntyre, and unanimously carried:

RESOLUTION PROVIDING FOR THE EXTENSION
 OF SEWERS, CONDEMNATING RIGHT-OF-WAY OVER
 SAID LAND NECESSARY FOR SUCH EXTENSION.

WHEREAS, in order to extend the sewer system and for such purpose it is necessary that the said sewers be extended, beginning at a point, the center of a new manhole over a 12-inch sanitary sewer which said manhole is located N. 21 deg. W. 13.3 feet from an old manhole over said sewer line, thence N. 74 deg. 36" E. 35.5 feet across "Space Reserved", thence N. 74 deg. 36" E. about 182.5 feet to Hamilton Avenue, thence N. 15 deg. 16" W. 50 feet along the wasterly edge of Hamilton Avenue to the common corner of Lot 34, Block 10, as shown on a map of "Midwood", recorded in Book 230, Page 285, in the Register of Deeds Office in Mecklenburg County, N. C., and, whereas, the City of Charlotte has been unable to agree with the owners of the land needed for such extension upon the purchase price of the same;

NOW, THEREFORE, BE IT RESOLVED:

1. That the sewer system be extended from the 12-inch sanitary sewer line, said point being described in the paragraph preceding and said sewer line be constructed, operated and maintained across said 35.5 feet of "Space Reserved", and across lot 34, hereinabove described to Hamilton Avenue.

2. That right-of-way across 35.5 feet of said "Space Reserved" be acquired by condemnation and that any restriction on Lot 34, and any right M. Lee Heath and D. Morgan Heath may have in any restriction on Lot 34, which would prevent the construction, operation and maintenance of said extension of said sewer line, be acquired by condemnation, said right-of-ways, two parcels of land more particularly described as follows:

FIRST TRACT: That certain strip of land 10 feet in width, extending along and over the said property and lying five feet on each side of a line designat ed as the center line of a right-of-way over said premises, for the purpose of construction, reconstruction, laying and/or maintaining a sewer or water line, said center line being more particularly described as follows, to-wit:

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BEGINNING at a point, the center of a new manhole over a 12-inch sanitary sewer, which said manhole is located N. 21 deg. 49" W. 13.3 feet from an old manhole over said 12-inch sanitary sewer, the right-of-way of which is recorded in Book 764, Page 615, in the Register of Deeds Office, for Mecklenburg County, North Carolina, thence with the center line of a new 8-inch sanitary sewer N. 74 deg. 36" E. 35.5 feet to a point on the westerly end of Lot 34, Block 10, as shown on a map of "Midwood" recorded in Book 230, Page 285 in the aforesaid registry and crossing an easterly portion of a strip of land shown as a "Space Reserved", and being a strip of land as further shown on a map A-7-C-55, filed in the City Engineer's Office, Charlotte, N. C.

SECOND TRACT: BEGINNING at a point the common front corner of Lots 33 and 34, Block 10 on the westerly edge of Hamilton Avenue as shown on a map of Midwood recorded in Book 230, Page 285, in the Register of Deeds Office for Mecklenburg County, North Carolina, thence with the said westerly edge of Hamilton Avenue S. 15 deg. 16" E. 50 feet to the common-front corner of Lots 34 and 35, thence with the dividing line of said lots 34 and 35 S. 74 deg. 44" W. 182.5 feet to the common-rear corner of said lots 34 and 35 and the easterly line of a strip of land labeled, "Space Reserved", claimed to be owned by M. Lee Heath and D. Morgan Heath, thence with the said common-rear line of lot 34, Block 10, and "Space Reserved" easterly line N. 15 deg. 16" W. 10 feet to a new corner, thence parallel with and 10 feet at right angles northerly from the common-lot line of said lots 34 and 35, N. 74 deg. E. 172.5 feet to a point, a new corner, thence parallel with and 10 feet at right angles westerly from the edge of above said Hamilton Avenue, N. 15 deg. 16" W. 40 feet to a point on the common-lot line of Lots 33 and 34, thence with the said common lot line of lots 33 and 34 N. 74 deg. 44" E. 10 feet to the point of BEGINNING, and containing 0.051 of an acre, more or less, all being briefly described as a strip of land 10 feet wide off of the front of a 50-foot-wide lot facing the westerly edge of Hamilton Avenue, and a strip of land 10 feet wide off of the southerly side of an 182.5-foot-length lot, all being lot 34 of Block 10 in "Midwood", a map of which is recorded in Book 230, Page 285, in the Register of Deeds Office, Mecklenburg County, North Carolina, and now owned by William H. Livie, and Edna R. Livie, by deed recorded in Book 1110, Page 457, of the above-said Registry, but having been sold to James J. Cook, trustee for certain persons named in a certain trust agreement to be recorded, to which references are hereby made, and all as shown on a map filed A-7-C-55 in the City Engineer's Office, Charlotte, North Carolina.

3. That the purpose of extending, constructing, operating and maintaining said sewer line is to provide a necessary outlet for sewerage from the homes of residents in that vicinity and to prevent undesirable odors which, in the past, have originated from sewerage being improperly disposed of in that vicinity, and said obnoxious odors from improper disposal of said sewerage have been blowing across the property of residents of the City of Charlotte in that vicinity and into the homes of said residents of the City of Charlotte, located in that neighborhood.

4. That the area in which damages or special benefits to property will result from said extension, construction, operation and maintenance of said sewer system, in the best judgment of the Council, includes all of the property on either side of the proposed extension and abutting thereon between Hamilton Avenue, across Lot 34, across "Space Reserved", to the said 12-inch sanitary sewer line at the new manhole, and the said area is hereby laid out and constituted an assessment district, a map of which shall be filed with the City Clerk.

5. That on the 30th day of October, 1945, at 4 o'clock P. M. in the Council Chamber of the City Hall, is hereby set apart as the time and place where and when the Council shall hear reasons for and against making the said extension of said sewer lines, shall hear all parties interested and shall make final determination of the matter.

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6. That notice of the time and place of said hearing and a brief description of the proposed extension of said sewer line shall be published in some newspaper published in the City of Charlotte for not less than ten days prior to the said meeting.

MEETING RECESSED.

Upon motion of Councilman Childs, seconded by Councilman White, and unanimously carried, the meeting recessed at 12 o'clock noon to reconvene at 5:00 P.M.

MEETING RECONVENED.

The recessed meeting reconvened at 5:40 P.M.

ADOPTION OF RESOLUTION AUTHORIZING CONVEYANCE OF PROPERTY TO CHARLOTTE VETERANS' RECREATION CENTER, AND AUTHORIZATION OF DEED TO SAID PROPERTY.

The following resolution, and deed, were presented and read:

RESOLUTION AUTHORIZING CONVEYANCE
OF PROPERTY TO CHARLOTTE VETERANS'
RECREATION CENTER.

WHEREAS, the General Assembly of North Carolina by Senate Bill No. 154 of its 1945 Session provided for the maintaining and operating of a Veterans' Recreation Center in the City of Charlotte, and

WHEREAS, said Senate Bill authorizes the City of Charlotte to convey to a Veterans' Recreation Center real estate, and

WHEREAS, there has been duly created a Charlotte Veterans' Recreation Center.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Clerk be authorized and directed to execute a deed to the Charlotte Veterans' Recreation Center conveying that property belonging to the City of Charlotte known as Nos. 111, 113, 115 and 117 North Poplar Street in said City, and being also known as the Mellon property, in form and substance according to the copy of said deed hereto attached and subject to the conditions and restrictions therein set forth, and the City Clerk is further directed to copy said deed in the minutes of this meeting.

Councilman White moved the adoption of the foregoing resolution. Motion seconded by Councilman Childs.

The deed referred to in the resolution was then read, as follows:

NORTH CAROLINA
MECKLENBURG COUNTY

THIS DEED, made and entered into this 18th day of October, 1945, by and between the CITY OF CHARLOTTE, a municipal corporation, organized and existing under and by virtue of the laws of North Carolina, of the County of Mecklenburg and State of North Carolina, party of the first part, and CHARLOTTE VETERANS' RECREATION CENTER, a body politic and corporate, organized and existing under the laws of North Carolina, of the County of Mecklenburg and State of North Carolina, party of the second part,

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W I T N E S S E T H:

That whereas, the party of the second part has been duly created under and in accordance with the provisions of Senate Bill No. 154 of the Session of 1945 of the General Assembly of North Carolina, for the purpose of maintaining and operating a veterans' recreation project in the City of Charlotte, North Carolina, and has agreed to maintain and operate such a project upon the conditions herein set forth:

NOW, THEREFORE, in consideration of the agreement by the party of the second part to maintain and operate such recreation project in accordance with the provisions of the Act of the General Assembly above referred to, the party of the first part does hereby sell and convey unto the party of the second part, and its successors and assigns, all those certain lots of land lying and being in Charlotte township, Mecklenburg County and State of North Carolina, more particularly described as follows:

FIRST LOT: BEGINNING at a point in the northwesterly margin of North Poplar Street, a corner between the property belonging to the Life Insurance Company of Virginia and the property formerly belonging to the heirs at law of E. W. Mellon, deceased, said beginning point being 130.57 feet distant in a northeasterly direction along said margin of North Poplar Street from a nail marking the intersection of said margin of North Poplar Street with the northeasterly margin of West Trade Street, and running thence with the line of the property belonging to the Life Insurance Company of Virginia N 48-53-30 W 118.30 feet to an iron stake; thence with another line of the Life Insurance Company of Virginia's property, N 43-19-15 E 50 feet to an iron stake; thence S 48-53-30 E 118.30 feet to a stake in the northwesterly margin of North Poplar Street; thence with the said margin of North Poplar Street in a southwesterly direction 50 feet to the beginning; said property being shown and designated as the E. W. Mellon lot on a map which is recorded in the office of the Register of Deeds for Mecklenburg County in Book of Maps 4, page 227, and being the same property conveyed to the City of Charlotte by deed of Etta C. Mellon and others, the widow and children of E. W. Mellon, dated March 23, 1945, and duly recorded in the office of the Register of Deeds for Mecklenburg County in Book 1146, page 412, to which reference is hereby made.

SECOND LOT: BEGINNING at a point in the northwesterly margin of North Poplar Street, the front corner between the "E. W. Mellon" lot and the "Mrs. Etta C. Mellon" lot as shown on the map recorded in the office of the Register of Deeds for Mecklenburg County in Book of Maps 4, page 227, said point of beginning being 180.57 feet distant in a northeasterly direction measured along said margin of North Poplar Street from the point marking its intersection with the northeasterly margin of West Trade Street and runs thence with the line of the "E. W. Mellon" lot, N 48-53-30 W 113 feet to an iron stake in the line of an alley; thence with the line of said alley W 43-19-15 E 53.33 feet to a stake; thence S 48-53-30 E with the line of the "Julia C. Shelton" lot, 113 feet to a point in the northwesterly margin of North Poplar Street; thence with the said margin of North Poplar Street in a southwesterly direction 53.33 feet to the beginning, said premises being all that certain lot shown as the "Mrs. Etta C. Mellon" lot on map which is recorded in the office of the Register of Deeds for Mecklenburg County in Map Book 4, page 227; and being the same lot conveyed to the city of Charlotte by deed of Mrs. Etta C. Mellon, widow, dated March 26, 1945, and duly recorded in the office of the Register of Deeds for Mecklenburg County in Book 1149, page 27, reference to which is hereby made. All the grantor's rights and interest to the alley in the rear of said lot are also conveyed by this deed.

The Second lot above conveyed is adjacent to and joins the First lot hereby conveyed on the northeasterly side thereof.

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TO HAVE AND TO HOLD the said property and all appurtenances thereunto belonging to the said party of the second part, its successors and assigns, to their only use and behoof forever.

THIS CONVEYANCE is made upon the following conditions to which the party of the second part, by accepting this deed, agrees to be bound:

1. The property hereby conveyed, or property for which it may be exchanged as hereinafter provided, shall be operated and maintained under the control of the Commissioners of Charlotte Veterans' Recreation Center in accordance with the provisions of the Act under which said Charlotte Veterans' Recreation Center was created.

2. If the Charlotte Veterans' Recreation Center shall cease to exist, or should it fail or refuse to maintain and/or operate veterans' recreational facilities upon the property hereby conveyed, or property received in exchange therefor, or be prevented from so doing by any cause, or if the Commissioners of the party of the second part shall determine, at any time that the property held by it is no longer needed for the purposes set forth herein and in the Act authorizing the Charlotte Veterans' Recreation Center, or that the number of veterans, who wish to take advantage of the facilities offered at the Veterans' Recreation Center, is not sufficient, in the opinion of the Commissioners, to justify a continuation of the project, then, and in any of those events, said property shall be sold by the party of the second part for the best price obtainable by its commissioners and the net proceeds of such sale or the proceeds realized from the physical assets of such Recreation Center by sale or otherwise shall be used for the establishment and maintenance of a home for the aged in the City of Charlotte or for an increase in the charity wards of the Charlotte Memorial Hospital. The purchaser at any sale shall not be required to see to the application of the proceeds of such sale, and such sale shall be free of the conditions herein imposed.

3. It is expressly understood that the party of the second part shall have the right to exchange the property herein conveyed for other property which it may deem suitable for the purposes for which the Charlotte Veterans' Recreation Center was created upon such terms as said party of the second part may determine. In the event of conveyance by the party of the second part of the property hereby conveyed, under this provision or under paragraph numbered two above, said party of the second part is fully authorized to convey said property in fee simple, and the said property in the hands of the grantee of the party of the second part shall be free and clear of all the conditions imposed by this deed. The deed to any property received by the party of the second part in exchange for the property hereby conveyed, shall contain the same conditions as those set out in paragraphs numbered 1 and 2 above.

4. The party of the second part assumes and undertakes to be responsible for the payment of all social security taxes, withholding taxes, or liability under and by virtue of the North Carolina Workmen's Compensation Act, and under any Unemployment Insurance Act and in general assumes and agrees to pay all valid and enforceable claims hereinafter to be made against either the party of the first part or the party of the second part; or both, by reason of the construction, maintenance, and operation of the Veterans' Project by the party of the second part; and the party of the second part agrees to pay all sums of money hereafter to become due to the party of the first part for water or other utility service.

IN TESTIMONY WHEREOF the City of Charlotte has caused these presents to be signed in its name by its Mayor and its corporate seal to be affixed and attested by its clerk, on the day and year first above written, all in pursuance of authority duly given by resolution of the Council of the City of Charlotte.

Attest:

City Clerk

CITY OF CHARLOTTE

By _____
Mayor

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Councilman McIntyre voiced his disapproval of the transfer of the property. He expressed the opinion that the City was without authority to transfer it's property without the specific provision that the property revert to the city when the parties to whom it was transferred ceased to use it for the purposes expressed, similar to the Memorial Hospital property transfer. He stated he felt that the Council had no right to transfer the property in this manner without the taxpayers having a voice in the decision; that the Council would be acting without legal authority; therefore, he could not support the adoption of the resolution to transfer the property to the Veterans' Recreation Center.

Vote was then taken on the motion for adoption of the resolution, and carried, and the following votes recorded:

AYE: Councilmen Childs, Hinson, Johnston, Fvette and White.

NAY: Councilmen McIntyre and Newson.

ADJOURNMENT.

Upon motion of Councilman Hinson, seconded by Councilman Newson, the meeting was adjourned.

Lillian R. Hoffman
City Clerk