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The weekly meeting of the City Council was duly held at 4 o'clock P. M., Wednesday, January 21, 1942, in the Council Chamber of the City Hall, with Mayor Currie presiding, and Councilmen Albea, Baker, Beasley, Daughtry, Hovis, Little, Painter, Price, Ross, Slye and Ward being present.

Absent: None.

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On motion of Councilman Albea, duly seconded and carried, the reading of the minutes of the previous meeting was dispensed with at this time.

#### PURCHASE OF CONCRETE PIPE.

The City Manager reported that due to a bad drainage condition on Louise Avenue and East 8th Street, it will be necessary to purchase 36 feet of 15-inch and 720 feet of 24-inch concrete pipe to correct same. Bids received on this pipe were as follows:

Carolina Concrete Pipe Company	\$954.36
Gray Concrete Pipe Company	1141.19
North Carolina Products, Inc.	1434.60

On motion of Councilman Slye, seconded by Councilman Painter and carried, the Mayor and Clerk were authorized to execute on behalf of the City of Charlotte, a contract with the lowest bidder, the Carolina Concrete Pipe Company, of Charlotte, covering this pipe, at a net delivered price of \$954.36.

#### PURCHASE OF FIRE HYDRANTS.

On motion of Councilman Daughtry, seconded by Councilman Ross and carried, the Mayor and Clerk were authorized to sign a contract with Grinnell Company, Inc., for 25 - 4 $\frac{1}{2}$  inch fire hydrants for 3 ft. trench, and 15 - 4 $\frac{1}{4}$  inch hydrants for 3'6" trench; estimated to be the requirements on this item for the remainder of the fiscal year; at a net delivered price of \$2,614.39. The Grinnell Company bid was the only one received on this item, although bids were called for in the usual manner.

#### REPAIRING STACKS AT INCINERATOR.

Bids having been received on materials and labor in repairing and reconditioning the East and West Stacks at the Incinerator Plant, as follows:

St. Louis Lightning Protection Co.	\$1,824.00
W. A. Hughes	1,852.00
Western Waterproofing Company	2,060.00

Councilman Albea moved that award be made to the lowest bidder, St. Louis Lightning Protection Company, St. Louis, Mo., at a price of \$1,824.00, and that the Mayor and Clerk sign the contract covering same. Motion seconded by Councilman Slye and carried.

#### REQUEST FOR CANCELLATION OF PAVING ASSESSMENT REFERRED TO CITY ATTORNEYS.

The City Manager reported that the Collector of Revenue

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reports a request received from Mr. E. T. Cansler, Jr., for cancellation of the paving assessment on property known as 515-517 Lamar Avenue (covered by Street Assessment Account #1594) in order to remove a cloud from the title thereto.

At the request of Mr. Flack, this was referred by the Mayor to the City Attorneys for their advice in the matter.

INVOICE APPROVED COVERING MEALS FOR MILITARY POLICE.

On motion of Councilman Little, seconded by Councilman Albea, an amount of \$4.60, covering invoice of The Purity Cafe for meals served to Military Police on December 20, 1941, was authorized to be paid from the Emergency Fund.

CHANGES IN PLANS FOR CONSTRUCTION OF UNIT AT INCINERATOR.

Mr. Flack reported that due to the shortage of steel, the Southern Engineering Company is showing on their steel plan for the unit at the Incinerator a few minor changes, substituting steel members of a different size, but of equal or greater strength. The charging chute, "steel floor flanges", are shown on the drawings as made of 3/4" thick steel plate. The Southern Engineering Company informs the City that steel plate cannot be sold to anyone other than the Army or Navy, therefore, they cannot make the floor flanges. He reported, however, that these could be cast of 75% grey iron and 25% low carbon steel, which is much less brittle than 100% grey iron, according to his information.

On motion of Councilman Daughtry, seconded by Councilman Slye and carried, the above suggested changes were authorized.

TRANSFER OF FUNDS OF CHARITY SOLICITATIONS COMMISSION TO COUNCIL BUDGET.

The City Manager advised that charges for supplies purchased under the Charity Solicitations Ordinance have been made against the City Council budget, also that all revenues derived from this source are credited to the Council as "miscellaneous revenue"; that requisitions in the amount of \$43.65 have already been charged against the Council's budget, which was not anticipated when the budget was prepared and is, therefore, overrunning the Council's expense budget. He asked that \$100.00 be transferred from the "miscellaneous revenue" account to the general expense budget to take care of such needed supplies.

On motion of Councilman Albea, seconded by Councilman Beasley, authority was given for the transfer of \$100.00 from the revenue account of the Council budget to the general expense account.

MINIMUM CHARGE FOR USE OF ARMORY FOR BOXING MATCHES BY THE HIGH SCHOOLS.

On motion of Councilman Baker, seconded by Councilman Slye and carried, the minimum rate of \$20.00 per night is to be charged for the use of the Armory for boxing matches by the High Schools under reservations to be made by Mr. Bob Allen, Director of Physical Education in the City Schools.

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RESOLUTION PROVIDING FOR BRINGING OF CASE TO TEST LEGALITY OF PAYMENT TO SCHOOL RETIREMENT FUND.

The Mayor presented a letter from Mr. C. W. Tillett, City Attorney, in which he advised that the test case in connection with the proposed payment to the State Retirement System should be instituted at once if a decision from the Supreme Court is to be had this spring; and advised that the best way to test the legality of this payment will be the usual method of having a taxpayer bring a suit to enjoin this payment.

The following ordinance in connection therewith having been prepared and submitted by Mr. Tillett, was, on motion made by Councilman Ross, seconded by Councilman Little, unanimously adopted:

RESOLVED, That the City Attorneys be, and they are, instructed to prepare a case to test the legality of the payment which the School Board has requested be made to the State Retirement System, the expense of said case to be borne by the City. That the sum of \$300.00 be, and it is, appropriated from the emergency fund for this purpose to be expended only by and with the approval of the Chairman of the Finance Committee, and that among the expenses to be paid by the City shall be the compensation of such additional attorney as may be necessary in connection with the handling and prosecution of said case to the Supreme Court.

RESOLUTION RELATIVE TO PARKING METERS NOT TO BE PRESENTED AT THIS TIME.

A proposed resolution with reference to certain changes in the parking meter contracts was handed to the Chairman of the Police Committee, but at his request this resolution was to be presented at a later date.

MEMBERSHIP IN NATIONAL INSTITUTE OF MUNICIPAL OFFICERS.

On motion of Councilman Ross, seconded by Councilman Ward, an appropriation of \$100.00 from the Emergency Fund was authorized for membership of the City of Charlotte in the National Institute of Municipal Officers, Washington, D. C. This membership was recommended by the City Attorneys, who stated that it would be of particular value at this time since it furnishes information concerning legal developments affecting cities, especially Federal legislation.

RESOLUTION EMPLOYING PAUL GUTHERY AND LEROY DULIN TO APPRAISE PROPERTY FORMERLY BELONGING TO C. N. SIMPSON ESTATE.

On motion of Councilman Little, seconded by Councilman Ross, the following resolution was adopted:

RESOLVED, That for a fee of \$25 each, Paul Guthery and Leroy Dulin be, and they are, employed to appraise the property now or formerly belonging to the Estate of C. N. Simpson, deceased, upon which the City has a tax or street assessment lien, for the purpose of determining the market value of each lot, this appraisal to be used by the Committee heretofore appointed by the Council as the Committee sees fit in determining the prices to be bid by the City for these lots if, as and when same are offered for sale in foreclosure proceedings instituted by the City.

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USE OF ARMORY FOR REPUBLICAN STATE CONVENTION GRANTED FOR DATE IN MARCH  
FREE OF CHARGE.

On motion of Councilman Baker, seconded by Councilman Ross and carried, use of the Armory-Auditorium for one day in March (date to be reserved later) for the Republican State Convention, was granted without cost; this being done at the request of Mrl C. O. Kuester, of the Chamber of Commerce.

While Councilman Ward did not oppose granting the Armory for the above use free of charge, he stated that he did not feel that it was right to charge the City schools for basketball games, which was done earlier in the meeting.

MILK ORDINANCE.

At this time, Councilman Ward presented the following resolution and moved its adoption, which motion was seconded by Councilman-Little;

RESOLUTION REFERRING PROPOSED MILK ORDINANCE TO  
A COMMITTEE OF THE COUNCIL.

RESOLVED That the proposed milk ordinance introduced and passed upon its first reading at the Council's session on the 7th day of January, 1942, be, and it is, referred to a committee of five members of the Council, to be appointed by the Mayor, the duties of the said committee to be as follows:

(1) To hold one or more public meetings at which representatives of the State Health Department, the City Health Department, the milk dealers and any other interested persons will be invited to state succinctly their views and present for the Committee's consideration any evidence bearing upon the wisdom of the proposed milk ordinance.

(2) Obtain from the City Health Department an analysis of the proposed milk ordinance for the purpose of ascertaining the exact particulars in which the milk ordinance differs from the existing milk ordinance;

(3) Take any other steps and do any other things which it may consider useful or necessary in order properly to determine whether or not it is in the public interest that the proposed milk ordinance should be adopted.

(4) Report back to the Council not later than the \_\_\_\_\_ day of \_\_\_\_\_, 1942, its findings of fact and recommendations regarding the said ordinance.

Before a vote could be taken on this resolution, Mr. D. E. Henderson and Mr. Frank Kennedy, attorneys, representing the milk dealers serving Charlotte, arose and stated that several hundred milk dealers were present at this time, expecting to be heard and that they would like to present their case to the extent that they had prepared to present it and that possibly after hearing them the Council would no longer be interested in the adoption of the proposed ordinance.

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Councilman Baker offered a substitute motion that the passage of the above resolution be deferred for the present and the delegation present be heard. Motion seconded by Councilman Albea and carried.

Mr. H. G. Ashcraft, dairyman, presented a letter from the State Grange, in which they stated that they neither endorsed or condemned the proposed ordinance, and presented excerpts from the Public Health bulletins relative to cutting down on milk fats. Mr. Ashcraft introduced Dr. Parker, veterinarian, who stated that the proposed ordinance is a let-down from the 1941 ordinance, which in itself is lax enough.

Dr. Graham Reid, representing a committee for the Mecklenburg Medical Society, composed of Drs. McKay, Kelly, Wannamaker, Gilmore, King and others, asked that they be placed on record as favoring the passage of the ordinance, and spoke quite at length on the merits of same; after which he introduced Dr. Gilmore, who also spoke.

Mr. Harvey Hunter and several other dairymen present were heard and M. L. Johnson, President of the Dairymen's Association, presented the Secretary of that Association, who filed with the City Clerk a petition containing approximately 1500 names of persons, asking that the Council not adopt the proposed ordinance. He also presented the following resolution adopted by that Association, on January 17, 1942:

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The Buttermilk Dealers Association of Mecklenburg County, in session at the Court House in Mecklenburg County, on Saturday, January 17, 1942, unanimously passed the following resolution:

WHEREAS the following facts exist:

(1) That there are between three and four hundred persons in Mecklenburg County engaged in the sale of buttermilk in the City of Charlotte and Mecklenburg County, produced by themselves.

(2) That the proposed City Ordinance which has been introduced before the City Council, includes buttermilk, and if passed, will prohibit the sale in the City of Charlotte of buttermilk produced by the members of the association.

(3) That the cost of the equipment necessary to be used in the production of buttermilk will be prohibitive to the members of the association.

(4) That the members of the association are producing buttermilk in a sanitary way, and have been selling it on the Charlotte market for many years without complaint.

(5) That the members of the association are reliably advised that the standards required for the sale of buttermilk are not the same standards required for the sale of sweet milk.

(6) That we are now at war, and the members of the association have been requested to increase the supply of buttermilk and butter, but if the proposed ordinance is passed, we will necessarily be driven out of business.

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(7) That the members of the association have only a few cows and cannot go to the expense of buying equipment required under the proposed ordinance, and if the ordinance is passed, they will be compelled to dispose of their cows.

(8) That the members of the association cannot compete with large dairies, and if the small producer of buttermilk is driven out of business, it will give a monopoly to the large dairies selling both sweet milk and buttermilk.

(9) That the members of the association are making it possible for the people of Charlotte to get good buttermilk at a reasonable price, and at the same time helping the merchants of the city sell merchandise to the members of the association, and also making it possible for the members to buy the necessities of life.

(10) That by means of producing and selling buttermilk the members of the association are able to take care of their families and to co-operate in the National Defense Program:

THEREFORE, BE IT RESOLVED, That the members of the Buttermilk Association of Mecklenburg County do hereby most earnestly implore the Mayor and City Council of Charlotte to except from the proposed ordinance the production and sale of buttermilk.

BUTTERMILK DEALERS ASSOCIATION

By M. L. Johnston, President  
M. W. Grass, Secretary

The above resolution, in paragraph (8) contained the names of Biltmore and Foremost as two of the large dairies, but at the request of Councilman Slye, and with the consent of Messrs. Johnston and Grass, the Mayor ordered these names stricken from the resolution.

Mr. Frank Kennedy, representing the buttermilk dealers, spoke at length on the effects this ordinance would have on the small buttermilk dealers, and a general discussion was entered into between Attorneys Kennedy and Henderson, with Drs. Gilmore, Reid, King and others, during which Dr. Reid submitted culture plates of Grade A Buttermilk and ungraded milk, the ungraded milk showing a quantity of germ colonies, which a Mr. Harris, vocational teacher, stated could just as easily be healthy germ colonies and diseased germ colonies.

After hearing all of the above parties speak, which consumed the major portion of three hours, Councilman Beasley moved that action on the Resolution be deferred for one week. This motion was seconded by Councilman Daughtry and carried.

CEMETERY DEEDS.

The following cemetery deeds and transfers were approved on motion of Councilman Albea, seconded by Councilman Baker:

Transfer of West Half Lot No. 25, Section "W" from Miss Flora McLendon to Dr. W. S. Rankin,	\$1.00
Transfer of North Half of Lot No. 5, Section "W" from C. H. and Georgia Robinson to E. C. Dwelle	1.00
Jack Howard Duke, Lot No. 233 Section "Y"	35.00

The request of Mrs. B. J. Witherspoon regarding deed to lot willed to her late husband, Dr. Witherspoon was referred to the City Attorneys for ruling.

ADJOURNMENT. The meeting adjourned at 7 o'clock p.m.

*Albea P. McNeal* City Clerk