

May 19, 1948
Book 32 - Page 358

A regular meeting of the City Council was held in the Council Chamber, City Hall, at 4 p.m., on Wednesday, May 19, 1948, with Mayor Baxter presiding, and Councilmen Albea, Childs, DeLaney, Jordan, Lambeth, McKee and White present.

INVOCATION.

The invocation was given by the Reverend Dr. Warner L. Hall, Pastor, Second Presbyterian Church.

MINUTES APPROVED.

Upon motion of Councilman Albea, seconded by Councilman DeLaney, the minutes of the last meeting, on May 12th, were approved as submitted.

ORDINANCE (No.42) TO AMEND ZONING ORDINANCE DEFERRED UNTIL JUNE 2nd.

The Hearing on the proposed amendment to the Zoning Ordinance by changing from Residence-2 district to Business-1 district the area on the east side of Plaza Road, between Eastway Drive and 35th Street, was held at this time.

Mr. Francis Clarkson, Attorney, representing Mr. R. K. Blalock, stated that Mr. Blalock had requested the zoning change in order to erect an addition to his store building on Downs Avenue and Plaza Road, which building was constructed prior to the adoption of the zoning ordinance. He advised there were other business houses within the area, and, also, that the property was unrestricted in the deed. He urged that the change in zoning be approved for the depth of Mr. Blalock's lots, approximating 195 feet.

Mr. William H. Abernethy, Attorney, representing residents within the effected area, presented a petition signed by property owners on Eastway Drive, Downs Avenue, Plaza Road and 35th Street, who object to the proposed change from a residential district. He stated these property owners deeds indicated this to be a restricted area to residences only. He advised that at the time Mr. Blalock erected the store building that the residents were under the impression that the building was to be a residence and not a business building, and they seriously objected to the construction of the addition to the building.

Upon motion of Councilman Lambeth, seconded by Councilman DeLaney, and unanimously carried, the matter was continued for two weeks in order that the opponents to the change could present their case to the Zoning Board of Adjustment.

ADOPTION OF REVENUE ORDINANCE FOR FISCAL YEAR 1948-49.

An ordinance entitled, Revenue Ordinance Levying, Assessing, Imposing and Defining the License and Privilege Taxes of the City of Charlotte for the fiscal year beginning July 1, 1948 and ending June 30, 1949" was introduced. Following the reading thereof, Councilman Lambeth moved the adoption of the ordinance. Motion was seconded by Councilman DeLaney, and unanimously carried, and the ordinance was adopted. Ordinance is recorded in full in Ordinance Book 9, beginning at Page 487.

MAYOR PRO TEM PRESIDES.

Mayor Baxter left the meeting at this time, and Mayor Pro Tem Lambeth took the chair for the remainder of the meeting.

SPCAY

RESOLUTION WITH REGARD TO ERECTING A MARBLE FRONT ON EAST 36TH STREET SIDE OF NEW ENGLAND WASTE COMPANY PROPERTY.

The following resolution which was introduced on May 12th was placed upon its final reading, and upon motion of Councilman Childs, seconded by Councilman McKee, was unanimously adopted:

RESOLUTION WITH REGARD TO ERECTING
A MARBLE FRONT ON EAST 36th STREET
SIDE OF NEW ENGLAND WASTE COMPANY
PROPERTY.

WHEREAS, New England Waste Company, located on the southwesterly edge of East 36th Street, between Southern and Norfolk-Southern Railroads, desires to erect a marble veneer front on the side of its building on the southerly side of East 36th Street;

NOW, THEREFORE, BE IT RESOLVED, that New England Waste Company be, and it hereby is, authorized and empowered to erect a marble veneer front on the side of its said building and extending onto the sidewalk on the southwesterly side of East 36th Street for a space of one and one-half inches, for a distance of 40 feet, all in accordance with the plan proposed by R. Edwin Wilson, Architect, dated April 27th, 1948, attached to the agreement hereinafter referred to, provided said company enters into an agreement in accordance with the agreement hereto attached and spread upon the minutes of this meeting, and the Mayor and City Clerk are hereby authorized and empowered on behalf of the City of Charlotte, to execute said agreement after the same has been approved as to form by the City Attorney.

A G R E E M E N T

NORTH CAROLINA
MECKLENBURG COUNTY

THIS AGREEMENT, made and entered into this _____ day of _____, 1948, 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 New England Waste Company, a corporation, with an office and place of business in the City of Charlotte, North Carolina, (hereinafter referred to as the Company, party of the other part);

W I T N E S S E T H

The City Council of the City at two regular meetings duly passed a resolution as set forth in Minute Book 32, at pages 356 and 359, authorizing this agreement to be entered into granting a special privilege to the Company to erect a marble veneer front on the side of its building and extending onto the sidewalk on the southwesterly side of East 36th Street for a space of one and one-half inches, for a distance of 40 feet, all in accordance with the plan of R. Edwin Wilson, Architect, dated April 27th, 1948, which plan is attached hereto and made a part hereof.

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

1. The special privilege for the construction and maintenance of said marble veneer front 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 marble veneer shall be removed from the sidewalk 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.

May 19, 1948
Book 32 - Page 360

2. During the existence of the time said marble veneer remains upon said sidewalk and until same is completely removed and the sidewalk restored, in case of revocation of this special privilege as hereinabove provided, the Company agrees:

- (a) Continuously to indemnify and save harmless the City from any and all claims of any nature whatsoever due directly or indirectly to the Company's use of said space over the sidewalk, including, but not limited to, claims 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 in court or otherwise.
- (c) To furnish the City liability insurance in an amount of not less than \$50,000, protecting the City against liability to any persons or property on account of the erection and maintenance of said marble veneer front protruding upon the sidewalk.

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.

THE CITY OF CHARLOTTE

By _____
Mayor

ATTEST:

CITY CLERK

NEW ENGLAND WASTE COMPANY

By _____

ATTEST:

SECRETARY

APPROVED AS TO FORM:

John D. Shaw, City Attorney /S/

ADOPTION OF RESOLUTION AUTHORIZING THE REMOVAL OF REMAINS OF EDDIE LEWIS IN ELMWOOD CEMETERY.

A resolution entitled, "Resolution Authorizing the Removal of Remains of Eddie Lewis in Elmwood Cemetery", was introduced and read, and upon motion of Councilman Childs, seconded by Councilman Jordan, was unanimously adopted. Resolution is recorded in full in Resolutions Book 1, at Page 115.

ADOPTION OF RESOLUTION AUTHORIZING CONTRACT WITH P & N REALTY COMPANY WITH REGARD TO A PROPOSED CHANGE IN THE GRADE OF TUCKASEEGE ROAD.

A resolution entitled, "Resolution Authorizing Contract with P & N Realty Company with regard to a Proposed Change in the Grade of Tuckaseege Road", was presented, and upon motion of Councilman Albea, seconded by Councilman McKee, was unanimously adopted. Resolution is recorded in full in Resolutions Book 1, at Page 115.

PAYMENT FROM EMERGENCY FUND TO ED. D. BLAIR FOR REPORTING CIVIL SERVICE HEARING.

Councilman Childs moved that \$53.00 be allocated from the Emergency Fund for payment to Mr. Ed. D. Blair, Court Reporter, for reporting hearing before the Civil Service Commission on May 1st. Motion seconded by Councilman Albea, and unanimously carried.

PAYMENT OF CLAIM TO N. B. STIWALT.

Upon motion of Councilman DeLaney, seconded by Councilman Jordan, and unanimously carried, payment of claim in the amount of \$12.50 was authorized to Mr. N. B. Stiwalt, covering damages to truck by a street sweeper.

CONTRACT APPROVED WITH MRS. MABEL B. DEVEREUX FOR SANITARY SEWER CONSTRUCTION IN NASSAU BOULEVARD.

Motion was made by Councilman Childs, seconded by Councilman Albea, and unanimously carried, authorizing contract with Mrs. Mabel B. Devereux for the construction of a sanitary sewer in Nassau Boulevard, at an estimated cost of \$306.46 to serve one house and 3 vacant lots, and that \$106.46 deposit be accepted for refund if and when one additional house is connected to said sewer.

CONTRACTS WITH H. L. MCCROREY FOR WATER MAINS CONSTRUCTION IN MCCROREY HEIGHTS SUBDIVISION, AND WITH C. D. SPANGLER IN TRYON HILLS SUBDIVISION.

Upon motion of Councilman McKee, seconded by Councilman Childs, the following contracts for the construction of water mains were unanimously authorized:

(a) Contract with H. L. McCrorey for mains in McCrorey Heights Subdivision, at an estimated cost of \$7,116.00. The City to finance all costs and the applicant to guarantee 10% revenue of said cost.

(b) Contract with C. D. Spangler, President, Tryon Hills, Inc., for mains in Tryon Hills Subdivision, at an estimated cost of \$18,500.00; the City to finance all costs, and the applicant to guarantee 10% revenue of said cost.

CONTRACT WITH THE CHARLOTTE NEWS FOR PUBLICATION, ETC., OF REVENUE ORDINANCE.

Councilman Childs moved that contract be authorized with The Charlotte News for the publication of the Revenue Ordinance and for printing 6,500 copies in booklet form and printing the ordinance in Ordinance Book No. 9, at a total/price of ^{estimated} \$820.90. Motion seconded by Councilman McKee, and unanimously carried.

SPECIAL OFFICER PERMIT RENEWED TO JOE. M. BRADLEY.

Upon motion of Councilman Albea, seconded by Councilman McKee, and unanimously carried, a Special Officer Permit was renewed for one year to Mr. Joe M. Bradley, for use on the premises of Freedom Park.

STREETS TAKEN OVER FOR MAINTENANCE.

Motion was made by Councilman Childs, and seconded by Councilman Albea, that the following streets be taken over for maintenance, as recommended by the City Manager:

- Osmond Street, between Bethel Road and Fordham Road.
- Lyndhurst Avenue, between Ideal Way and Magnolia Avenue.
- Atherton Street, between South Boulevard and Euclid Avenue.

Councilman DeLaney stated he would prefer that the improvements to these streets be made in accordance with the provisions of the Charter,

May 19, 1948
Book 32 - Page 362

SPCAY

and an Appraisal Board be appointed to determine if the property owners should share in the cost of the improvements.

Following the discussion, the vote was taken on the motion that the streets be taken over for maintenance, and carried, with votes cast as follows:

AYE: Councilman Albea, Childs, Jordan, McKee and White.
NAY: Councilman DeLaney.

CEMETERY DEED.

Upon motion of Councilman Childs, seconded by Councilman Albea, and unanimously carried, the Mayor and City Clerk were authorized to execute deed for the transfer of Lot A, in front of Rows 7 and 8, Section B, North Pinewood Cemetery, to E. T. Dumas, at a cost of \$122.85.

UNANIMOUS CONSENT REFUSED TO CONSIDER APPOINTMENT OF ACTING CHIEF OF THE FIRE DEPT. AND MATTER REQUESTED DOCKETED FOR NEXT MEETING.

Councilman Jordan moved the unanimous consent of Council be given to consider the appointment of Assistant Chief Donald Charles as Acting Chief of the Fire Department pending the retirement of Chief Palmer. Motion was seconded by Councilman DeLaney, and did not carry unanimously, with the following votes cast:

AYE: Councilman Albea, DeLaney, Jordan and McKee.
NAY: Councilmen Childs and White.

Councilmen DeLaney then requested that the subject be placed on the Docket for the next Council Meeting.

ADJOURNMENT.

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

Lillian R. Huffman
City Clerk