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City Council met in regular weekly session at 4:00 o'clock P. M., Wednesday, May 31, 1939, Mayor Douglas presiding, and Councilmen Baxter, Britt, Hovis, Hudson, Huntley, Little, Nance, Sides, Ward and Wilkinson present.

Absent: Councilman Albea.

MINUTES READ AND APPROVED.

On motion of Councilman Hudson, seconded by Councilman Sides, the minutes of the special meeting of May 19th. were approved with the correction that the salary of the Assistant City Manager be changed to read the salary of the Collector of Revenue.

On motion of Councilman Huntley, seconded by Councilman Wilkinson, the minutes of the May 24th. meeting were approved as read.

TENTATIVE RESERVATION OF ARMORY-AUDITORIUM MADE FOR CHARLOTTE SYMPHONY ORCHESTRA SOCIETY.

On motion of Councilman Britt, seconded by Councilman Little, five dates, namely, October 20th. and December 8th. 1939, February 9th., April 5th. and May 18th. 1940, are to be reserved on the Armory-Auditorium for the Charlotte Symphony Orchestra Society concert season, with permission to also use same the night before each concert for rehearsals provided no commercial reservations are made for those dates. The above without cost.

In this connection, Councilman Hudson reported the Armory-Auditorium used twenty-nine days in May with only eight or possibly nine paying engagements out of that entire number.

MECKLENBURG YOUNG DEMOCRATIC CLUB TO USE ARMORY WITHOUT CHARGE.

Mr. Frank Exum requested free use of the Armory-Auditorium for State Convention of the Democratic Clubs, which will be held in September provided the invitation of the Mecklenburg Young Democratic Club is accepted. and asked that five dates be reserved tentatively until it can be determined which three of the five dates will be needed. These dates are the 6th., 7th., 8th., 9th. and 10th. of September 1939.

Councilman Hovis made a motion that these dates be held open until the next meeting of the Council, at which time Mr. Exum was requested to advise the exact dates desired. Motion seconded by Councilman Nance and carried.

PROTEST WITH REFERENCE TO CREATION OF OFFICE OF COMMISSIONER OF POLICE.

The following protest was submitted by Mr. D. B. Smith, on behalf of Mr. Joe Garibaldi, relative to the creation by the Council of the office of Commissioner of Police:

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF CHARLOTTE:

Now comes Joe Garibaldi, a citizen and taxpayer of the City of Charlotte, for himself, and all other taxpayers of the City of Charlotte, and hereby makes protest against the attempt on the part of the City Council and the members thereof to create the office of "Commissioner of Police" of the City of Charlotte and to appoint Mr. Keely Grice to fill said office, and further protests the payment of any salary or compensation out of the treasury of the City of Charlotte to the said Keely Grice for

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services or alleged services as such "Commissioner of Police."

The grounds upon which this protest is based are, among others, as follows:

1. That the Charter of the City of Charlotte makes no provision for and does not contemplate any such office as "Commissioner of Police" and that the act of the City Council, or certain members thereof, in the attempt to create such an office was illegal and ineffectual and did not result in the creation of such an office, and that the appointment or attempted appointment of the said Keely Grice as "Commissioner of Police" was illegal and ineffectual and did not vest him with any authority whatsoever as an officer or employee of the City of Charlotte; that the Charter of the City of Charlotte provides for a Chief of Police and gives him control of the Police Department and makes him responsible for the discipline and efficiency of said department; provides that he shall make rules and regulations to be approved by the City Council, and gives to said Chief of Police authority to make all promotions and demotions of members in the Department, subject only to the right of any officer demoted to appeal to the Civil Service Board; that the City of Charlotte has a Chief of Police, clothed with all of said powers and authorities and that there is no authority in law for the appointment of a so-called "Commissioner of Police"; that said "Commissioner of Police", if appointed, would be wholly without authority over the Chief or any of the officers or employees of said Police Department; that such an officer would be without duties and would hamper the operations of the Department and would hinder and ham-string the Chief of Police in the discharge of his duties as head of said Department and inevitably would result in confusion, disorganization and inefficiency of the police force of the City of Charlotte.

2. That the payment of a salary of \$4,200. a year, plus \$300 for expenses to a so-called "Commissioner of Police", is far in excess of the salary paid the duly constituted Chief of Police, is unwarranted in law, and would be a waste of the taxpayers' money and an extravagance wholly unjustifiable.

WHEREFORE, your protestant demands that the attempted action of the Council and the members thereof in respect of the attempted creation of said office and the appointment of a so-called "Commissioner of Police" be held and considered as null and void and of no effect, and that no funds of the City of Charlotte be used or applied in the payment of any salary or other expenses as a result of such action; failing in which each and every member of the City Council and any and all agents and employees of the City would pay or countenance such illegal expenditures will be held personally liable therefor.

Respectfully submitted this the 31st day of May, 1939.

(SIGNED) P. C. Whitlock

D. B. Smith  
Attorneys for Protestants.

The original copy of said protest was filed with the City Clerk and a copy furnished the City Attorney.

FREE LICENSE FOR CARNIVAL GRANTED COLORED AMERICAN LEGION POST.

On motion of Councilman Sides, seconded by Councilman Baxter, the Colored Post of the American Legion, was granted free license to bring to Charlotte the week of June 12th. a carnival which they are sponsoring to raise money to send delegates to the State and National

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conventions, with the understanding that the carnival company guarantee to the Post the amount of \$200.00 which the City is waiving on this license fee.

CONTRACT FOR STRUCTURAL STEEL.

The following bids having been received on structural steel for use on the Summit Avenue Bridge:

Southern Engineering Company	\$994.00
R. R. Robertson	1025.00
Soule Steel & Iron Company	1040.00

Councilman Huntley made a motion that award be made to the low bidder, Southern Engineering Company, at the price of \$994.00 delivered, and that the Mayor and Clerk sign the contract. Motion seconded by Councilman Nance and carried unanimously.

CONTRACT FOR STEEL SASH AND JAMB PLATES FOR DRILL TOWER.

On motion of Councilman Sides, seconded by Councilman Barter, the Mayor and Clerk were authorized to execute contract with R. R. Robertson for Steel Window Sash and Jamb Plates to be used in the construction of the Drill Tower being erected for the Fire Department, at the delivered price of \$334.00.

Other bids received were:

Southern Engineering Company	\$ 336.00
Easterby and Mumaw	425.00

CREOSOTED TIMBERS.

On motion of Councilman Little, seconded by Councilman Hudson, the Mayor and Clerk were authorized to sign contract on a quantity of Creosoted Timbers to be used in the construction of the bridge on Summitt Avenue, with The Wood Preserving Corporation, the low bidder, at a total delivered price of \$721.37.

Bids received on this material were as follows:

Wood Preserving Corp.	\$ 721.37
Taylor-Colquitt Company	733.01
Southern Wood Preserving Co.	750.46
Atlantic Creosoting Company	756.28

SEWER EXTENSION - BAY STREET.

Request having been received for the extension of an 8" sanitary sewer in Bay Street, between St. Julian and Westover Streets, a distance of 105 feet from the present end of the sewer, westerly towards St. Julian Street, to serve one house now under construction and three other lots in this block, estimated to cost \$113.30, Councilman Wilkinson moved that this extension be made. Motion seconded by Councilman Baxter and unanimously carried.

WATER MAIN EXTENSIONS.

The Acting City Manager, Mr. Jas. W. Armstrong, reported request received from Mr. Raymond Glazier and wife, for the extension of the 6" water main in Morton Street, from West Morehead Street to Berryhill Belt Road, a distance of 890 feet, which is estimated by the Engineering Department to cost \$960.00, with the applicant guaranteeing an annual revenue equal to 10% of the initial cost of this extension.

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Mr. Armstrong reported for the information of the Council as to the condition of the water extension fund account, stating that Mr. Vest, Superintendent of the Water Department, advises that this account is running low, and that with the above extension and also one on Third Street to be taken up later on in this meeting, as well as the one authorized at the last meeting for Lex Marsh in Wilmount Road and Barringer Drive, amounting to \$1,361.50, that a balance will be left in this account of only \$261.34.

Councilman Wilkinson in view of the above, moved that the authorization of extension on Morton Street be held up for one week, but Councilman Barter explained that a number of small homes are being erected in that section and inasmuch as the cost of this extension is taken into account in the above report, Councilman Wilkinson withdrew his motion and Councilman Barter, seconded by Councilman Wilkinson, moved that the extension requested by Mr. Glazier be authorized.

#### JUDGMENT AGAINST CITY OF CHARLOTTE IN CASE OF HELEN ANDERSON.

Mr. Armstrong reported that judgment was entered against the City of Charlotte, in the sum of \$175.00 in favor of Helen Anderson, for injuries sustained from falling into a hole in the sidewalk; together with court costs amounting to \$32.15, making a total of \$207.15, and that check had been issued to the Clerk of the Superior Court to cover this judgment.

#### CONSTRUCTION OF SEWER LINE IN WEST THIRD STREET.

On motion of Councilman Barter, seconded by Councilman Hudson, the request of the John Crosland Company for construction or relocation of a sewer line in West Third Street, from near McNinch Street to the sewer outfall, was granted. The present sewer was originally located along West Third Street as then staked out by the property owners and the sewer as it now runs is over private property and not along the new street line. Therefore, it was the desire of Mr. Crosland that the old line be abandoned and the new line put in operation. There are no houses in this block and no connections to be made to the present sewer line.

#### WATER MAIN INSTALLATION.

The John Crosland Company also requested the installation of a 6" water main in West Third Street, between McNinch and Irwin Creek, guaranteeing an annual revenue equal to 10% of the cost of the installation. This installation was included in the above report made on the water extension fund account and the money is in that fund to take care of this. Thereupon, Councilman Huntley moved that the installation be made. Motion seconded by Councilman Baxter and carried.

#### WEST TRADE STREET SEWER EXTENSION.

On motion of Councilman Hovis, seconded by Councilman Little and carried, the request of the ED Mellon Company for extension of a sewer at 106 West Trade Street, was granted, the property owners to pay for the entire cost of this work, less \$75.00 for the manhole, or a total of \$326.77.

#### EXPENSE OF REPAIRING OFFICE FOR USE OF POLICE COMMISSIONER AUTHORIZED FROM EMERGENCY FUND.

Mr. Armstrong reported that the cost of putting the office of the Commissioner of Police into condition for occupancy will be approximately \$70.00, and that the budget of the Buildings Department is running low and it was the recommendation of the Municipal Accountant that the money for this work be appropriated from the Emergency Fund.

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Councilman Sides moved that this amount be taken from the Emergency Fund for such repairs, which was seconded by Councilman Nance, and the following vote recorded:

AYES: Councilmen Sides, Nance, Little, Hovis, Britt and Hudson.

NAYES: Councilmen Ward, Huntley, Baxter and Wilkinson.

The Mayor declared the motion carried.

MAINTENANCE OF WESTOVER STREET DEFERRED ONE WEEK.

A petition from a number of residents on Shenandoah Avenue and Westover Streets was presented, asking the City to take over for maintenance one block of Westover Street, between Shenandoah and Chesterfield Avenue. Councilman Huntley reported this street in bad shape, and made a motion that the matter be held for one week in order to get an estimate of the cost of putting it in shape. Motion seconded by Councilman Hovis and carried.

TAX RATE FOR PREPAYMENT OF 1939 TAXES.

The Mayor advised that it would be necessary to set a tentative rate for the prepayment of 1939 taxes at this time and called attention to a report prepared by the Acting City Manager with regard to certain items of Revenue in the budget on which there is an anticipated deficiency in the current fiscal year's operations, which will have to be taken care of.

Councilman Hovis, as Chairman of the Finance Committee, explained that in addition to the net anticipated deficit in Revenue, amounting to \$170,335.00, there will be an increase in Debt Service obligations of approximately \$56,600.00, making a total deficit of \$226,935. He moved that the tentative tax rate be set at \$1.60 on the \$100.00 property valuation, which motion was seconded by Councilman Hudson and carried, with Councilman Sides voting "no" and Councilman Wilkinson not voting.

Councilman Hovis also made a motion that a copy of the report of the Acting City Manager be furnished The Charlotte News and The Charlotte Observer for publication. Motion seconded by Councilman Nance and carried.

CASE OF MRS. T. T. LUCAS VS. CITY OF CHARLOTTE.

The City Attorney reported that the case of Mrs. T. T. Lucas against the City of Charlotte for damages on account of alleged injuries received by falling on broken sidewalk on Park Drive, was tried in Superior Court and the jury had returned a verdict of no liability on the part of the City of Charlotte, which the Judge stated would be set aside unless the City agrees to settle by paying the plaintiff \$350.00, the cost of medical services in the matter, as he did not intend to see an injustice of that kind prevail. After discussion, Councilman Baxter, seconded by Councilman Nance, moved that the case be settled for \$350.00, but this motion lost, and Councilman Wilkinson, seconded by Councilman Sides, moved that the case not be settled but again be tried by a jury. This motion carried on a 7 to 3 vote.

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NOTICE OF CLAIM OF MISS CLARA SOUERS AGAINST CITY.

Notice of property damage claim in behalf of Miss Clara Souers against the City of Charlotte, for alleged negligence in allowing water to flow across her property on North Poplar Street, was referred to the City Attorney for handling. Miss Souers' attorneys are Robinson and Jones, and amount of damage claimed \$2500.00.

RESOLUTION APPOINTING COMMISSIONER OF POLICE PASSED ON SECOND READING.

Mayor Douglas explained that a mistake was made by him at the last meeting in counting the votes on the resolution appointing the Commissioner of Police and that he had been advised by the City Attorney that on a six to four vote it would be necessary for the resolution to be adopted at two separate meetings. He thereupon, again presented the resolution passed on May 24th., as follows:

WHEREAS, in the opinion of the City Council of the City of Charlotte, it is to the best interests of the City to appoint a Commissioner of Police, whose duties shall be to coordinate the various functions of the Police Department, to develop greater efficiency so that the service of the Department may be improved:

THEREFORE, BE IT RESOLVED: That there is hereby created the office or position of Commissioner of Police and that the City Manager or acting City Manager immediately appoint some suitable person to said office or position in order that the purposes herein above expressed may be accomplished.

Councilman Sides made a motion that this resolution again be adopted, which was seconded by Councilman Nance, with the following voting:

AYE: Councilmen Sides, Nance, Little, Britt., Hovis and Hudson.

NAY: Councilmen Baxter, Ward, Huntley and Wilkinson.

The resolution was declared carried.

RESOLUTION RELATING TO DUTIES OF COMMISSIONER OF POLICE.

The following Resolution was presented by the Mayor, and on motion of Councilman Sides, seconded by Councilman Little, was adopted on first reading at this meeting on the following vote:

AYE: Councilmen Sides, Little, Nance, Hudson, Hovis and Britt.

NAY: Councilmen Baxter, Ward, Huntley and Wilkinson.

RESOLUTION RELATING TO THE COMMISSIONER  
OF POLICE OF THE CITY OF CHARLOTTE, NORTH CAROLINA.

WHEREAS, the City Council of the City of Charlotte, North Carolina, has heretofore created the position of office of Commissioner of Police or Safety of the City of Charlotte; and

WHEREAS, the City Council of the City of Charlotte desires to specify the manner in which the duties of said Commissioner shall be performed:

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charlotte in regular meeting:

Section 1. That it is, and shall be, the duty of the Commissioner of Police or Safety of the City of Charlotte to investigate and study the budget and the various functions of the Police Department of the City and to advise and recommend to the Mayor and City Council and to the City Manager and the Chief of the Police Department as to the best methods of creating efficiency in said department and of improving the service of said department.

Said Commissioner shall not be a member of the Police Department of the City of Charlotte.

All duties to be performed by said Commissioner of Police or Safety, or which may be imposed hereafter, shall be done and performed under the supervision and direction of the Mayor and City Council.

Section 2. That the resolution adopted May 24, 1939, creating the position or office of Commissioner of Police or Safety of the City of Charlotte is hereby re-enacted, as hereinbefore modified and amplified, and the appointment thereunder, and all acts done pursuant thereto, are hereby ratified and confirmed.

Section 3. That a copy of this resolution be given to Mr. Grice, the Commissioner, and to Mr. Pittman, the Chief of Police, for their instruction.

RESOLUTION RELATIVE TO OPENING NEW SECTION IN ELMWOOD CEMETERY TO BE KNOWN AS G-ANNEX.

The following Resolution was presented by Councilman Hovis, who moved its adoption, seconded by Councilman Little and unanimously carried:

WHEREAS, it becomes necessary that additional space be made for the burial of people in Elmwood Cemetery, in the City of Charlotte, and it appears that there is additional space known as "G" Annex, which can be used for the purpose of burying people:

NOW, THEREFORE, BE IT RESOLVED: That this new territory in Elmwood Cemetery, known as "G Annex" be opened for burial purposes and that lots be sold in said area, to be used for the said purpose, and that all lots sold in said area shall be in perpetual care.

COMMITTEE APPOINTED TO STRAIGHTEN OUT LOT IN ELMWOOD CEMETERY OF JOHN THOMAS.

Rev. J. C. Jones, Pastor of Newell Baptist Church, appeared before the Council with reference to a lot in Elmwood Cemetery owned by the heirs of John Thomas, deceased, on which there was some controversy as to lot number, size, etc., the original owner never having received a deed.

After discussion, Councilman Wilkinson made a motion that the City Attorney, City Clerk and City Engineer go into this matter and have full power to act, in order that a grave can immediately be dug, with the Council ratifying same at the next meeting. Motion seconded by Councilman Baxter and carried.

TRANSFER OF DEED IN ELMWOOD CEMETERY.

On motion of Councilman Hovis, seconded by Councilman Sides, approval was given for the transfer of Lot No. 133, in Fract "T" from Eloise Bunnell Brown and husband H. Elliott Brown, to Mr. and Mrs. J. T. Gatling.

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LETTER FROM CITY MANAGER.

Councilman Wilkinson reported receipt of a letter from Mr. J. B. Marshall, City Manager, in which he asked to be remembered to the Council, and stating that he was improving in health very rapidly and expected to return to Charlotte the next week.

ADJOURNMENT.

On motion of Councilman Baxter, seconded by Councilman Wilkinson, the meeting adjourned.

Alice B. McConnell  
City Clerk