

June 17, 1953
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A regular meeting of the City Council of the City of Charlotte, North Carolina, was held in the Council Chamber, City Hall, on Wednesday, June 17, 1953, at 4:00 o'clock p.m., with Mayor Van Every presiding, and Councilmen Albea, Baxter, Boyd, Brown, Dellinger, Smith and Wilkinson present.

Absent: None

INVOCATION.

The invocation was given by Councilman Claude L. Albea.

MINUTES APPROVED.

Upon motion of Councilman Baxter, seconded by Councilman Smith, and unanimously carried, the minutes of the last meeting on June 10th were approved as submitted.

ORDINANCE NO. 178 AMENDING ZONING ORDINANCE CHANGING ZONING FROM RESIDENCE-2 TO INDUSTRIAL ON REAR PORTION OF LOTS 1 THROUGH 12 ON WOODWARD AVENUE, ADOPTED.

The scheduled hearing was held in connection with Ordinance No. 178 Amending the Zoning Ordinance to change the Building Zone Map from Residence-2 to Industrial on the rear portion of Lots 1 through 12 on Woodward Avenue.

Mr. Richard Simmons, 1014 Carter Avenue expressed objections to the rezoning, stating that he resides on Carter Avenue on the opposite side of the street from the rear portion of Lots 1 through 12 on Woodward Avenue which is requested rezoned and on which he understands warehouses will be erected. That when he purchased the property for residential purposes he was assured that no business establishments would be erected in the area. It was pointed out by the applicant, Mr. L. L. Rose, that all of the property opposite Mr. Simmons was zoned for Industrial purposes at the time he purchased the property, and the requested rezoning is simply in keeping with the present zoning of the adjacent property.

Councilman Boyd moved the adoption of the ordinance, which was seconded by Councilman Baxter, and carried, with the votes cast as follows:

YEAS: Councilmen Baxter, Boyd, Brown, Dellinger, Smith and Wilkinson.

NAYS: Councilman Albea.

The ordinance is recorded in full in Ordinance Book 11, at Page 314.

PETITION REQUESTING DDT SPRAYING IN AREA OF MARYLAND AVENUE TO HILLSIDE AVENUE AND SELWYN AVENUE TO WESTFIELD ROAD REFERRED TO CITY MANAGER AS ADMINISTRATIVE MATTER.

A petition signed by 351 residents requesting that the agreement between the City Health Department and Mr. Edwin O. Clarkson, 248 Ridgewood Avenue, prohibiting the City spraying with DDT the area of Maryland Avenue to Hillside Avenue and Selwyn Avenue to Westfield Road, was filed by Mr. L. O. McClamroch, 1828 Lynwood Drive. Mr. Charles Elrod, 2921 Westfield Road spoke in favor of the petition. Mr. McClamroch stated that it is understood by the residents that in 1948, Mr. Clarkson wrote to someone with the City stating that the DDT Spray was injurious to the birds in his Gardens which is a sanctuary for birds, and requesting that no further spraying in the area be done, and that since that time the residents have been without benefit of the City's DDT chemical against flies, mosquitoes and other insects, and the protection of their children's health and lives from polio. He protested the City placing the interest of one resident before that of all other residents of the area, and giving protection to bird-life over that of children.

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Mr. William E. Poe, Attorney, stated he spoke for the residents of Ridgewood Avenue, and that Mr. Edwin O. Clarkson has spent a great deal of time during the past twenty-six years developing his two and one-half acre Gardens as a Bird Sanctuary, which is open to the general public and visited by people all over the country and where classes of school children are held to observe bird-life; that Dr. Bethel of the City Health Department admits that the DDT spray is detrimental to birds; therefore, they request that these Gardens be given special attention and protected from the Spray in the public's interest.

Councilman Albea stated that as this is an administrative matter, he moved that it be referred to the City Manager for handling. The motion was seconded by Councilman Dellinger, and unanimously carried.

Mayor Van Every told the delegation that it is the opinion of the Council that the area will be fogged with DDT.

ORDINANCE NO. 182 AMENDING CHAPTER 7 OF THE CITY CODE PRESCRIBING REQUIREMENTS WITH RESPECT TO THE INSTALLATION OF GAS BURNING EQUIPMENT.

An ordinance entitled: "Ordinance No. 182 Amending Chapter 7 of the City Code Prescribing Requirements with Respect to the Installation of Gas Burning Equipment" was introduced and read. Councilman Baxter moved the adoption of the ordinance as read, which was seconded by Councilman Wilkinson, and unanimously carried. The ordinance is recorded in full in Ordinance Book 11, at Pages 315-320.

ORDINANCE NO. 183 AMENDING CHAPTER 7, BUILDING CODE, PRESCRIBING CAUSES FOR THE REVOCATION OF PLUMBERS LICENSES.

An ordinance entitled: "Ordinance No. 183 Amending Chapter 7 of the Building Code of the City of Charlotte, Plumbing Code, Prescribing Causes for the Revocation of Licenses" was introduced and read. Councilman Albea moved the adoption of the ordinance, which was seconded by Councilman Brown, and unanimously carried. The ordinance is recorded in full in Ordinance Book 11, at Page 321.

RESOLUTION AUTHORIZING THE ADVANCE OF FUNDS FOR THE ENGINEERING WORK ON GRADE CROSSING ELIMINATION PROJECT.

A resolution entitled: "Resolution Authorizing the Advance of Funds for the Engineering Work on Grade Crossing Elimination Project" was introduced and read. Councilman Baxter moved the adoption of the resolution, which was seconded by Councilman Smith, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 112.

RESOLUTION WITH RESPECT TO EXCAVATION UNDER THE SIDEWALK ON THE WESTERLY SIDE OF SOUTH CHURCH STREET IN FRONT OF PROPERTY FORMERLY KNOWN AS ADDISON GARAGE ADOPTED.

A resolution entitled: "Resolution With Respect to Excavation under the Sidewalk on the Westerly Side of South Church Street in Front of Property Formerly Known as Addison Garage", was introduced and read. Councilman Boyd moved the adoption of the resolution, which was seconded by Councilman Baxter, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 113.

The Agreement to be entered into by the City of Charlotte and Addison Building Corporation covering the said excavation and installation of a fuel oil tank, as referred to in the said resolution, is as follows:

NORTH CAROLINA

MECKLENBURG COUNTY

THIS AGREEMENT, Made and entered into this 17th day of June, 1953, 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 first part, and ADDISON BUILDING CORPORATION, a North Carolina Corporation, hereinafter referred to as OWNER, party of the second part;

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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 35 at pages 39-41, authorizing this agreement to be entered into granting a special privilege to the owner of property located at 220 South Church Street, to excavate under the sidewalk immediately adjacent to said property, for the purpose of placing a fuel oil tank thereunder, and to use said excavated space for said purpose, the same being more particularly described as follows:

A space under the sidewalk on the westerly side of South Church Street, 5 ft. no inches from the southerly property line of its property extending under said sidewalk for a width of 4 ft. 6 in. and having a total over-all length of 21 ft. 4 inches, as shown on Map hereto attached, dated June 9, 1953.

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 sidewalk 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 hereinafter provided, the owner agrees:
 - (a) Continuously to maintain the sidewalk 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 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 \$ _____ 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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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 OF CHARLOTTE

City Clerk

By _____
Mayor

ATTEST:

ADDISON BUILDING CORPORATION

President

APPROVED AS TO FORM:

John D. Shaw
City Attorney

RESOLUTION PROVIDING FOR FILING BUDGET ESTIMATE FOR FISCAL YEAR 1953-54 AND AUTHORIZING THE PUBLICATION OF THE BUDGET SYNOPSIS.

A resolution entitled: "Resolution Providing for Filing the Budget Estimate of the City of Charlotte for the fiscal year 1953-54 and Authorizing the Publication of the Budget Synopsis", was introduced and read. Councilman Baxter moved the adoption of the resolution, which was seconded by Councilman Boyd, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 114.

SETTLEMENT OF CLAIM OF W. T. HINNANT FOR DAMAGES TO CAR.

Upon motion of Councilman Smith, seconded by Councilman Wilkinson, and unanimously carried, the claim of Mr. W. T. Hinnant was authorized settled in the amount of \$76.13 covering repairs to his car which was damaged by a City Fire Truck on April 29th, as recommended by the City Attorney.

CLAIMS OF PANSY HOLLYFIELD FOR PERSONAL INJURIES AND OF CALVERT FIRE INSURANCE COMPANY FOR DAMAGES RESULTING FROM CLAIM OF JAMES DAVIS FOR ACCIDENT TO CAR, REFERRED TO CITY ATTORNEY.

Motion was made by Councilman Boyd, seconded by Councilman Baxter, and unanimously carried, referring to the City Attorney for proper handling the following claims:

- (a) Claim filed on Jun- 12th by Mr. Alvin A. London, Attorney in behalf of his client, Pansy Hollyfield for personal injuries sustained on April 26, 1953 by falling on the sidewalk at 525 North Tryon Street alleged to have been caused by the defective manner in which the sidewalk was constructed and maintained. Claim is for \$25,000.00.
- (b) Claim filed on June 11th by Mr. E. C. Stothart, Jr., Attorney in behalf of his client Calvert Fire Insurance Company, for damage in the amount of \$547.50 growing out of damage to the car of James Davis on McCall Street, on November 23, 1952.

PLAT OF COMMERCIAL DEVELOPMENT OF V. H. SCARBOROUGH APPROVED.

Upon motion of Councilman Dellinger, seconded by Councilman Albea, and unanimously carried, the Plat of the Commercial Development of Mr. V. H. Scarborough located between the Old Salisbury Road, Southern Railway, 36th Street and the A.T. & O. Connection track, was approved as recommended by the Planning Board.

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CONTRACT FOR ICE RINK AT COLISEUM AWARDED AMERCO, INC.

Councilman Dellinger moved that contract for the construction of the Ice Rink in the Coliseum be awarded the low bidder, Amerco, Inc., at their bid price of \$94,819.00. The motion was seconded by Councilman Baxter, and unanimously carried.

CONTRACT WITH W. R. HUDSON FOR INSTALLATION OF WATER MAINS IN REID-HUDSON PROPERTY.

Councilman Boyd moved that contract be authorized with Mr. W. R. Hudson for the installation of 2,050 feet of water mains in the Reid-Hudson property adjacent to Woodlawn Road, outside the city limits, at an estimated cost of \$2,770.00; and that all costs be borne by the Applicant who it is agreed will dedicate the mains to the City immediately upon completion of the installation. The motion was seconded by Councilman Baxter, and unanimously carried.

CONSTRUCTION OF SANITARY SEWER MAINS AUTHORIZED.

Upon motion of Councilman Boyd, seconded by Councilman Dellinger, and unanimously carried, the construction of sanitary sewer mains was authorized as follows:

- (a) 444-feet of 8 inch main in Airlie Street, at an estimated cost of \$1,800.00, to serve 10 vacant lots. All costs to be borne by the City, and applicant's required deposit of the full amount to be refunded as per terms of the contract.
- (b) 430-feet of 8 inch main in Marlowe Avenue, at an estimated cost of \$1,020.00, to serve 9 vacant lots. All costs to be borne by the City, and applicant's required deposit of the full amount to be refunded as per terms of the contract.
- (c) 231-feet of 8 inch main in Sterling Road, at an estimated cost of \$950.00, to serve 5 vacant lots. All costs to be borne by the City, and applicant's required deposit of the full amount to be refunded as per terms of the contract.
- (d) 200-feet of 8 inch main in "B" Avenue, at an estimated cost of \$460.00, to serve 2 family units and 8 vacant lots. All costs to be borne by the City, and applicant's deposit of \$60.00 to be refunded as per terms of the contract.

APPLICATION OF FRED A. MCGRAW FOR APPOINTMENT AS SPECIAL CONSTABLE TABLED.

The City Manager advised that Mr. Fred A. McGraw, 1029 Elizabeth Avenue, Charlotte has filed application for appointment by the City as a Special Constable for the purpose of serving civil papers and warrants issued by the Courts, and that letters of endorsement have been filed by Sheriff Clyde Hunter and Messrs. G. Mack Riley, J. Leon Smith, G. W. Bradley and Wm. C. McIntire, Justices of the Peace.

Councilman Smith stated that in his opinion such appointments should be voted on by the citizens, and he moved that the application be tabled. The motion was seconded by Councilman Brown, and unanimously carried.

CONSTRUCTION OF DRIVEWAY ENTRANCES AUTHORIZED.

Motion was made by Councilman Boyd, seconded by Councilman Baxter, and unanimously carried, authorizing the construction of the following driveway entrances:

- (a) Two 30-ft. driveways at 2216 W st Morehead Street.
- (b) Two 35-ft. driveways on East 7th Street and Two 35-ft. driveways on North Brevard Street, both for Esso Standard Oil Company at 401 East 7th Street.

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TRANSFER OF CEMETERY LOTS.

Upon motion of Councilman Boyd, seconded by Councilman Dellinger, and unanimously carried, the Mayor and City Clerk were authorized to execute deeds for the transfer of the following cemetery lots:

- (a) Deed with Mrs. Bonnie F. Myers, for Lot 148 in Section 4-A, Evergreen Cemetery, at \$81.90.
- (b) Deed with Miss Hilda Bernardo and Mrs. Angelina B. McEwan, for Lot 109, in Section 2, Evergreen Cemetery at \$104.00.

CITY EMPLOYEES GRANTED HOLIDAY ON FRIDAY, JULY 3rd IN OBSERVANCE OF THE SIGNING OF THE DECLARATION OF INDEPENDENCE.

Councilman Albea moved that Friday, July 3rd be declared as a holiday for City Employees in observance of the Signing of the Declaration of Independence on the 4th of July. The motion was seconded by Councilman Dellinger, and unanimously carried.

RESOLUTION AUTHORIZING PAYMENT TO CHARLOTTE INVESTMENT COMPANY IN THE SUM OF \$200.00 IN SETTLEMENT OF SUIT OF WORTH FENNER, ET ALS.

A resolution entitled: "Resolution Authorizing Payment to Charlotte Investment Company in the Sum of \$200.00 in Settlement of Suit of Worth Fenner, Et Als" was introduced and read. Councilman Albea moved the adoption of the resolution, which was seconded by Councilman Baxter, and unanimously carried. The resolution is recorded in full in Resolutions Book 2, at Page 115.

APPLICATION FOR BUILDING PERMIT FOR ADDITION TO CAROLINA TRANSFER AND STORAGE COMPANY APPROVED.

Upon motion of Councilman Albea, seconded by Councilman Dellinger, and unanimously carried, an application for a building permit for constructing an addition to the Carolina Transfer and Storage Company, 1200 West Morehead Street, was approved.

BUDGET CONFERENCES ARRANGED FOR JUNE 23rd AND 24th AT 7 O'CLOCK P.M.

Conferences for consideration of budget appropriations for 1953-54 were arranged for next Tuesday and Wednesdays, June 23rd and 24th, at 7 o'clock p.m. and Councilman Boyd requested that the City Manager send a reminder of the time and place of the conferences to the Council.

CONFERENCE REQUESTED ARRANGED ON JULY 13th WITH DUKE POWER COMPANY OFFICIALS RELATIVE TO BUS TRANSPORTATION GENERALLY THROUGHOUT THE CITY.

Upon motion of Councilman Boyd, seconded by Councilman Baxter, and unanimously carried, the City Manager was requested to arrange a conference with Duke Power Company Officials on Monday evening, July 13th, at 7 o'clock for a discussion of the bus transportation question generally throughout the city.

ADJOURNMENT.

Upon motion of Councilman Dellinger, seconded by Councilman Smith, and unanimously carried, the meeting was adjourned.

Lillian R. Hoffman
City Clerk