

**Regular Meeting
City Council
February 14, 1994**

The regular meeting was called to order by Mayor Charles B. Black, Jr. at 7:30 P. M. Those present were Councilwoman Phyllis Harris, Mayor Pro-Tem Bob Jessen, Councilmen Archie Small, Michael Helms, R. L. Duke, and Jim Hope, as well as City Manager Phil Ponder, Zoning Administrator Gary Roberts, Public Works Director Eddie Nichols, and City Attorney Kemp Michael.

The invocation was led by Rev. Keith Hearn.

Councilman Small **MOVED** to approve the minutes of January 10, 1994, as written, seconded by Councilman Duke, and carried with six ayes.

Mr. Henry Massey, representing the Recreation Committee, appeared before the Council to request funding for a concessions/restroom facility at Tuckaseegee Park. He thanked the Council for the nice park facility improvements, and stated his belief that Mount Holly can be proud of the park. They are planning to construct a building 24 feet by 24 feet in size, one story, to house the restrooms and concession stand. Mr. Baber, with Gaston County, has agreed to assist with the construction and has helped with the plans, which were based on Stanley's facility, and cost estimates. There would be paving in front of the building, and a second story can be added later if desired. Mayor Black asked if water is already available; it is. He asked the estimated costs; that is around \$21,000.00. Councilman Small asked the City Manager if funding is available, to which Mr. Ponder replied it is not budgeted this fiscal year as he thought it was coming in the next fiscal year, but he stated that the contingency fund could be used. Councilman Hope stated that he is in favor of the project, but he cautioned the Committee to get the job done at the lowest cost possible while still getting good quality and labor. He inquired as to who would solicit bids; Mr. Baber said he would do that if the Council wishes. Councilman Duke **MOVED** that the City Manager be authorized to proceed with the construction of a restroom/concessions facility at Tuckaseegee Park for a sum not to exceed \$21,000.00, seconded by Councilwoman Harris, with all in favor. Mayor Black suggested they request help from the Army Corps of Engineers.

Mr. Roy Warden from the Area Council presented a framed map of the City to the Council. The map is the only one of the City with a street index. He stated that their meetings are on the second Tuesday of every month. Mayor Black also had some of the City's brochures distributed to the audience.

The regular meeting was recessed and a public hearing called to order for consideration of an amendment to the zoning ordinance, Section 71.10(d). The proposal would eliminate the provision requiring the removal of non-conforming billboards within five

years. Zoning Administrator Roberts stated that the ordinance was adopted on July 11, 1988 upon the recommendation of the Planning Commission wherein limitations were put on billboards and non-conforming billboards were to comply or be removed within five years. He stated there are nine non-conforming billboards in our jurisdiction. Mr. Roberts informed the Council he had contacted the Institute of Government and they confirmed that the time period allotted in our ordinance has been upheld as a permitted zoning power; and further that the three year statute of limitations has expired for contesting the ordinance. He reported that the Planning Commission held its public hearing and made no recommendation. Mr. Max Butler, Creative Signs, was recognized, and stated that he did not come to challenge the authority or legality but to express concerns. He stated that billboards are allowed in B-3 zones currently and all his signs are in that zone. He pointed out there are only seven in town, so the City is not being "run over" with signs. Mr. Jack Drumm, an attorney for billboard owners, said the statute of limitations question is not necessarily out of the question in this matter, and there are cases establishing requirement for compensation for taking. He stated the opinion that this situation is dealing with vested property rights, each sign representing an investment of \$30,000 or more, and that local businesses advertise on them. He said property owners, vendors, maintenance crews, salesmen, are all affected. Councilman Small asked if the City receives a tax from the signs; June Smith, the Tax Collector, said she knows Creative Signs pays, but she is not sure about the others without checking. Councilman Small asked what the expected life of a billboard is; about 40 years according to Mr. Butler. Councilman Hope asked Mr. Butler why he had not reacted before now. Mr. Butler said he does not take the local newspaper as he lives in Shelby and only just received a notice of these public hearings recently. Councilman Hope said he has counted 15 spaces with only 3 advertising for local businesses. Councilman Jessen asked if the amendment would "grandfather" the existing billboards but not change the control of new ones; this was correct. Mayor Black recalled he had been in favor of the ordinance when it passed, but he now felt the signs are needed to communicate to the public what is here for them to use and he was in favor of the amendment. Councilman Duke agreed. Mr. Jerry Wilson was recognized and said he thought they should be left alone because they have been there all these years already and are not hurting anything. Mr. Dennis Dotson said one of the non-conforming billboards affects him, and he needs that sign to advertise his business (a fish restaurant), and if it is removed, his livelihood will be affected; he felt restrictions by government "have gotten out of hand". Councilman Small said he does not think the signs are really noticeable anyway to people who live here; for example, one on Highway 27 has been removed, and no one at the last Area Council meeting had noticed. Councilman Helms said he does not notice them because he drives up and down these roads all the time, but visitors would see them, and he thinks we need them. Mayor Black asked if the billboards at Interstate 85 are affected by the ordinance; they are not. Yates Springs, Chairman of the Planning Commission, asked the

Council to carefully consider what action it takes on this matter, because it will affect the proposed sign ordinance as well with regard to non-conforming signs. Chuck Cloninger, also a Planning Commission member, said the situation in the City with signs has been bad for a long time, and the Council needs to determine where the line will be drawn. Councilman Jessen said he was on the Council when the ordinance passed, and he recalled it was done in conjunction with a movement to clean up the entry-ways into the City and with a proposed corridor district zoning; he further stated his belief that billboards are in a different category from signs, although he agreed with their statements. Pat Hubbard was recognized and she stated that the intent of the ordinance was to prevent the highways from becoming like Independence Boulevard in Charlotte, but it does not look like that now, and she was in favor of controlling future billboards, but leaving the old ones as they are. There were no further comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** to table this matter and to extend the deadline for removal of non-conforming billboards until the Council acts on the proposed sign ordinance not later than the September, 1994, regular meeting; motion seconded by Councilman Jessen, and carried with five ayes and one nay (Duke).

Councilman Small nominated Jack Stevenson to be recommended to Gaston County for appointed as an outside member on Planning Commission and Board of Adjustments. There were no outside members on the old list of waiting volunteers. Councilman Helms nominated Lynn Dunn. Councilman Small **MOVED** to close the nominations. Jack Stevenson will be recommended for the position upon a vote of four in his favor, with two votes for Lynn Dunn.

Carlton Broome, for CEKA, Inc., appearing on behalf of a petition for voluntary annexation by CEKA for approximately 80 acres it owns off West Central Avenue near Kendrick. The property adjoins the City limits and also adjoins the satellite City limits of Deerfield Subdivision, which will make it all contiguous. Councilman Jessen **MOVED** to adopt Resolution #2-14-94(a) directing the Clerk to review the petition and make a recommendation (copy attached); seconded by Councilman Hope, with all in favor. City Clerk Phil Ponder stated that since City staff has been working on the site plans for this industrial subdivision for months, he could state upon existing information that the petition is in order and he can recommend a public hearing be held. (copy attached) Councilman Jessen **MOVED** that Resolution #2-14-94(b) be adopted to set the public hearing for March 14, 1994; seconded by Councilman Hope, with all in favor.

City Manager Ponder reported that he had a response from the attorney for CSX Railroad with regard to the City boring under the tracks to supply water to the CEKA industrial subdivision. The attorney agreed that since the encroachment is for a water line, the City will be able to use its existing \$2 million liability insurance, but he is waiting to receive this in writing. Councilman Hope **MOVED** to authorize the Mayor and City Clerk to

execute the agreement between the City and CSX for the water line to the CEKA industrial subdivision upon receipt of the corrected document showing a \$2 million insurance requirement, seconded by Councilman Duke, with all in favor.

City Manager Ponder presented the Mount Holly Fire Department's adopted Constitution and By-Laws which it has recently amended as required by the OSCHA regulations as to responsibility at the fire scene. The paid Chief will be in charge at the fire scene. Mr. Ponder recommended a liaison between the volunteer fire department and the City Manager's office. The Council concurred and had no objection to the documents presented.

Deertrack Development Company has requested the City to accept ownership and maintenance of the public facilities in Phase II of Deertrack Subdivision. Public Works Director Nichols said they have requested the one year warranty begin on December 16, 1993. He has reviewed the streets, storm water drainage, and sidewalks, and finds the water and sewer improvements to be substantially in compliance, and he recommends the request be granted for the water and sewer improvements. He found, however, that the streets are not properly graded to a 2 to 1 slope, the storm drain in one area is not complete, and the sidewalks are not complete because they do them as they build each house. Councilman Small said he noticed some clean-out plugs have concrete around them and others do not; Mr. Nichols said that is on the "punch list" to be cleared up during the warranty period. City Manager Ponder stated the City staff is trying to be growth friendly while enforcing the ordinance, and he recommended accepting Mr. Nichols' recommendation. Councilman Hope **MOVED** to accept for ownership and maintenance the water and sewer improvements in Phase II of Deertrack Subdivision, with the one year warranty beginning on December 16, 1993; seconded by Councilman Duke, and carried with five ayes and one nay (Small).

Councilman Duke **MOVED** to set a public hearing to consider amending the watershed ordinance at the next regular meeting; seconded by Councilman Helms, with all in favor.

A joint meeting with the Planning Commission has been proposed. The Council agreed to have its workshop first, and set it for March 5, 1993 at 1:00 P.M., and will have the Planning Commission Chairman attend. A joint meeting will be set after the workshop.

City Manager Ponder had received a petition to pave and maintain Smith Street between Tomberlin and Belton Avenue, which he stated he found to be in order with the proper fees paid. Pictures of the road were shown to the Council by Richard Rork for John & Lavene Lester. Councilman Jessen asked if anyone receives mail at the address of Smith Street; they do not. City Manager Ponder said the cost estimate is \$25,300.00. Councilman Jessen **MOVED** to accept the petition and authorize the City Manager to proceed pursuant to the Catawba Heights street policy; seconded by Councilman Hope with all in favor. Councilman Jessen suggested

the name be changed after it is paved.

City Manager Ponder had received a petition to pave and maintain Hilltop Avenue, which he stated he found to be in order. However, an additional five feet of right-of-way would be required from the property owners, a survey must be done, and he is not sure if all fees have been paid. Councilman Duke **MOVED** to accept the petition and authorize the City Manager to proceed pursuant to the Catawba Heights street policy contingent upon paid fees, the survey, and appropriate easements being received; seconded by Councilman Hope, with all in favor.

June Smith, the City Tax Collector, gave the annual report to the Council pursuant to G. S. 105-369(a). The tax levy for 1993 was \$1,338,051.00, and 93.7% has been collected, with \$81,810.00 outstanding. She made recommendations for tax lien sale advertisement and sale dates. Councilman Jessen **MOVED** to accept the report and set April 6, 13, 20, and 27, 1994 as advertisement dates, and May 9, 1993, as tax lien sale date; seconded by Councilman Small, with all in favor. She stated that all valuations are set by the County, and that the County collects motor vehicles taxes now.

Councilman Small **MOVED** to approve the tax release presented on 2-14-94 for 1993 taxes, in the amount of \$1,201.85; seconded by Councilman Duke, with all in favor.

The floor was opened to complaints or petitions not on the agenda. Mr. Jerry Wilson said that there are seven families on Church Street off Tuckasee and the mail runs on that road, but the City never even scrapes it. Mr. Nichols said the road is not a City street and it was not on the State list that we took over when we annexed that area; he recommended the residents follow the Catawba Heights street policy. Mr. Wilson also said the grass is growing up over the curbing and the City should get a street sweeper machine especially since even Lowell and Cramerton have one.

Lillie Holdsclaw, Lynbrook Road, stated her concern about the traffic problem after Smith Street is paved. She said it comes out on Belton Avenue in a sharp curve, and people drive too fast on Belton Avenue so she is afraid people pulling out there will be hit. She suggested a barricade so it is not a through street, or at least putting up a warning light.

Mayor Black said Gene Featherstone has contacted him about offering to sell the City his mother's property next to the old Catawba Heights water department property on Henry Avenue.

Councilman Hope asked the City Manager to set a meeting with the Pay Plan Committee and the City department heads.

Councilman Small asked the City Manager if mail delivery from Mount Holly in the Catawba Heights area has been requested in writing. Mayor Black said it has been to more than one place.

The Post Office told him it requires a petition by the residents, and he has even contacted State and Federal congressmen. Councilman Small said he has been told that the City needs to write a letter requesting this, and he asked it be tried again.

The Council took a ten minute recess.

Upon **MOTION** by Councilman Small, seconded by Councilman Hope, with all in favor, the Council went into executive session for attorney-client matters. The Council returned to open session upon **MOTION** by Councilman Small, seconded by Councilman Hope, with all in favor.

Councilman Hope **MOVED** that the City Manager write a letter to Jerry Wilson stating that the Council found him to be in substantial compliance with the past agreement and it will not pursue enforcement of the paving, the dumpster, the one deck he lacks, or the additional storage buildings not already constructed. This motion was seconded by Councilman Small, and carried unanimously.

Councilman Jessen **MOVED** that due to ambiguities in the ordinance, the carport constructed by Mr. Michael Roddy shall be allowed to remain; seconded by Councilman Duke, with all in favor.

The meeting was then adjourned at 10:15 P.M., upon motion by Councilman Duke, seconded by Councilman Hope, with all in favor.

Phillip B. Gordon. O.
City Clerk

Charles B. Black Jr.
Mayor
