

Regular Meeting
City Council
February 10, 1992

The meeting was called to order by Mayor Charles B. Black, Jr. at 7:30 P.M. Those present were Mayor Pro-Tem Faye Little, Councilwoman Phyllis Harris, Councilmen Archie Small, and Bob Jessen, as well as Director of Public Works Eddie Nichols, Police Chief Jerry Bishop, Zoning Administrator Gary Roberts, City Manager Charles McGinnis, and City Attorney Kemp Michael. Councilwoman Lib Nichols was absent due to surgery, and Councilman Myles Biggerstaff was absent due to his employment.

The invocation was led by Reverend Cyrus Frazier.

The minutes of January 13, 1992, were approved with the following corrections: page 1, paragraph 4: that David Anthony be considered for appointment as the fifth member of the Land Development Use Committee; and page 1, paragraph 5: that Councilwoman Harris was accompanied by her nephew; upon MOTION by Councilwoman Little, seconded by Councilman Jessen and carried with four ayes.

Mayor Black read and presented a Proclamation in appreciation of the hard work volunteered by Marlene Huggins as the Chairman of the Spring Festival Committee for the 1991 festival and also thanked the entire committee for its fine job.

As to the matter of appointments to the Planning Commission, Mayor Black stated that he had not received a recommendation from the Planning & Zoning Board as to the appointments that need to be made as a meeting with the full committee has not been held; the appointment was tabled ON MOTION by Councilman Jessen, seconded by Councilman Small with all present in favor.

Councilwoman Little MOVED to adopt the resolution in favor of and to authorize the City Clerk and Mayor to execute the documents for the reinspection of municipal bridges by DOT as presented, which motion was seconded by Councilman Jessen and carried with four ayes.

Tax releases dated February 10, 1992, were approved in the amount of \$196.71 for 1991 taxes and \$9.00 for tags, ON MOTION BY Councilwoman Little, seconded by Councilman Jessen and carried with four ayes.

Councilwoman Little MOVED to approve resolution #2-10-92(a) and to authorize the execution by the Mayor and City Clerk of the Holly Hills Apartments Dwelling Lease as presented; seconded by Councilman Jessen, with all present in favor.

June Smith, Mount Holly Tax Collector, made her annual tax collection report for the fiscal year ending June, 1992, pursuant to G. S. 105-369(a). She reported that the tax levy for 1991-92 is \$1,219,954, with outstanding real estate tax of \$65,317, a

collection percentage of 93.7%. \$11,646 in prior taxes had been collected through January 31, 1992. Upon her recommendation, and on MOTION by Councilwoman Little, seconded by Councilman Small, and carried with five ayes, the tax lien advertisement dates were set for April 1, 8, 15, and 22, 1992, and the tax lien sale date was set for May 11, 1992.

Mr. Julius Goldstein was recognized. He informed the Council that he had been treated wrongly with regard to pickup of the dumpster which he leased from BFI. He had paid \$848 for the tipping fee in 1990 and \$1,090 in 1991, and is told it will be \$96.53 per month this year, all in addition to the lease fee from BFI of \$26.50 a month. He felt the City should pro-rate the dumpsters between the merchants because six or seven have used this one but they have not been paying him for use of the dumpster. Also, he knows that people who live outside come in and use his dumpster and he feels it is unfair for him to pay this amount alone. Mayor Black said the Council has no choice but to pass on the tipping fee which the County is charging. Mr. McGinnis said the City's policy which was adopted was to charge the owner for the dumpster and have the owner collect from the ones using it, so he had no authority to have the City pro-rate the fee. Mayor Black said the Council has a problem all around because they have told the County insiders are having to pay for the garbage outsiders bring in and dump in the dumpsters. Councilman Small asked if Mr. Goldstein would be permitted to use containers behind his store and get pickup by the City twice a week since he plans to have the dumpster removed. It was stated that he would be permitted to do so. Mr. Goldstein then invited the Councilmembers to come by and visit with the merchants personally to hear first hand what they have to offer for suggestions for the downtown area, and asked the Council to help businesses in town and encourage new businesses to come. Mayor Black said the City needs a merchant's association like it used to have.

The regular meeting was recessed and public hearings called to order. The first public hearing was for consideration of a request to close all or a portion of Annex Street. Mayor Black said that Councilman Biggerstaff had asked him to request the Council delay any action it might take with regard to this matter until he is present. Ray Williams, Oakcrest, stated he is in favor of closing the street and that they would give the City and Mr. Eldridge a right-of-way as necessary. Eddie Wilson, Oakcrest, said he likes having only one entrance and was in favor of closing Annex Street. Betty Hawkins-422 Timberlane, Mrs. Miller-411 Timberlane, Ed Summerlin-Crestline, Robin Crawford-414 Timberlane, were all in favor of closing Annex Street. Rick Eldridge, Oakcrest, was against the closing, stating that his brother's property would have no access if Annex Street is closed and it is against the law to cut him off; he further asked for Gary Roberts to read a letter he had received; he stated that development is coming and they cannot keep change away. Mayor Black said the Council had been given a copy of the letter sent to Gary Roberts. There were a large number of persons in attendance interested in this public hearing; so the Mayor asked three more times if anyone

else would like to speak for or against this matter, but no one else came forward. The public hearing was adjourned and the regular meeting resumed. Councilwoman Little MOVED to table action on this matter until the next regular meeting at which the full Council is present; seconded by Councilman Small and carried with four ayes.

The regular meeting was again recessed and a public hearing called to order for consideration of a conditional use permit requested by Gene Ratchford for 214 apartment units on South Main Street. The Planning and Zoning Board recommended approval provided a traffic study be done. Mr. Greg Allen appeared once again before the board. The plan had been presented last year and at the Council's request changes have been made to align the entrance with Carey Street and to place a rear entrance all the way to Tuckaseege Street; in addition, Public Works Director Nichols had requested a public utility right-of-way which has been added. More units have been added than previously called for because the immediate construction of a rear entrance required that they incorporate some of what was previously in Phase Two into the Phase One plan; however, he said there are 8 units per acre rather than the 12 units per acre which the ordinance allows. They have tried to preserve the natural environment where possible and kept tree areas; also buffers are in place on the plan. Mr. Allen said the first opposition they had been aware of came up at the Planning Board meeting the prior week, and seemed to center on objections to Mr. Ratchford's other projects, particularly something that happened in Belmont a few years ago. Mr. Allen stated that Mr. Ratchford is the largest developer in Gaston County and he has checked with County officials and found Mr. Ratchford's reputation to be a good one. This site plan is a \$7 million project and the units will call for moderate to high rents and are designed with the professional community in mind, which is why there is a pool, clubhouse, and green area park for the residents. Mr. Allen said his company needs direction with regard to the center turn lanes on Highway 273, because they will be a tight fit and might require temporary construction easements be obtained by the City. Councilwoman Little asked if a traffic study has been done. Mr. Allen said it has not, and stated that DOT had come out and looked at the site plan and the area and said that with the alignment of Carey Street and the rear entrance, they have no problem with it and do not require further traffic study. Councilwoman Little asked if the rear entrance would be constructed with Phase One; he said yes. Councilman Jessen asked if DOT has responded to the City's correspondence; Mr. Roberts said they have not answered his question about the turn lanes yet; Mr. Allen said he had talked to DOT and they had told him the plan would be approved by them. Councilwoman Little asked what would happen to the drainage ditches now there because there exists a big problem with water on some of the lots along there. Mr. Nichols said the best answer would be curb and gutter with storm drains, but that would not be feasible at this time. Jo Ann Rick, 743 S. Main Street, said the ditches overflow now and curb and gutter would not hold it all. Mr. Allen stated that since the site is below the houses named and downstream from them, the

project would not impact on them. Mayor Black asked what they are proposing with regard to the park provision in the ordinance. Mr. Allen said they propose that an appraiser determine the value of the 4.2 acres the City would be entitled to and have monies be donated instead of land to the City. Councilwoman Little said the City would prefer that they keep the land and develop it for the complex's residents. Mr. Allen said they will do low maintenance things, like picnic tables, paths, etc. City Attorney Michael stated that the acreage and location of the park needs to be designated on the site plan. Mr. Nichols asked if the entire water line will be installed in Phase One; Mr. Allen said it would. Mr. Doug Arthurs, attorney for Gene Ratchford, the developer, was recognized. He stated that he has been working with the planning firm and Mount Holly's Planning Board to make this a good community and to lessen the stress on adjoining property owners where possible. He pointed out that this property was zoned for multi-family permitted uses when Mr. Ratchford applied for his permit and stated that he is automatically entitled to his permit unless the plan does not comply with the zoning ordinance, and he submitted that it does in every respect. Mr. Arthurs continued that Mr. Ratchford has gone beyond the requirements by complying with the new conditional use zoning, and he asked that they not be delayed any longer; he stated that Mr. Ratchford was entitled to an answer within ten days and it has been a year. Mr. Jim Windham, attorney for Dr. and Mrs. Raul Aizcorbe, an adjoining property owner, spoke in opposition of the plan, stating that they had been told this would be a public hearing for a conditional use permit. He said they had only just gotten notice and need more time to study the plan and urged the Council to review it carefully before giving approval. Mr. Windham further continued that if this is built, it will have a great impact; that the Planning Board said there should be a traffic impact study; that traffic is a problem now and this will only make it worse considering there are about 300 parking spaces in it; they have concerns over the center lanes, and easements needed, as well as traffic signals; he felt an environmental study in connection with the flood plain should be required as well. He asked that the matter be sent back to the Planning Board for more study. Mr. Roberts stated that last year this plan was sent through the subdivision ordinance, which does not require a public hearing; he said the City has not delayed this project. Mr. Allen concurred with that and said the City staff has not hindered them, but they delayed in bringing back the revised plans after their last appearance because of the recession in the economy. Mr. Roberts said that at the January meeting an ordinance was adopted regarding multi-family districts making them conditional uses and requiring public hearings be held, which is why he had now sent notices to the adjoining property owners. He further stated that the Council now has the authority to attach conditions to the permit to make it compatible with the neighborhood; that the planners have complied with the Council's prior instructions to align the entrance with Carey Street, to make a rear access to Tuckaseege, and to provide turn lanes. Linda Fuller, 805 S. Main Street, said when she first lived in Stanley it was quiet until a development flattened the area and so she moved to Mount Holly

into a 60 year old house which she has remodelled and improved so that its value has increased, and now she is concerned that this development will affect her; she is concerned about the traffic, the loss of privacy, the quality of construction, noise pollution, whether it will be properly maintained; she also had environmental questions, whether or not green areas are being preserved, that the park be a private and not a public park, and the integrity of Fites Creek being preserved. She said the quality of her life will be affected and she challenged the developer to develop this complex as if it were in his back yard, and the City staff to be sure he does. Mrs. Campbell, S. Main Street, said she questioned the statements being made by Mr. Allen because he had said he did not know Mr. Ratchford, but he had told the Fullers that he did. Mr. Bill Crist, Forest Hills, stated his opposition to the present plans, because of the traffic flow increase, and that it would affect the safety of citizens on Highway 273; also, he stated that monetarily he expected it would cause a devaluation in property values because the traffic will be worse than it is now; even emergency vehicles have trouble getting through as it is now; he asked that the Council delay this matter until a traffic study is done. Charlene McRorie said her daughter was in a wreck out there because she was turning into a driveway on 273, that there is great danger out there already, and they need a traffic study done. Tom Campbell, S. Main Street, stated they moved here four years ago to Mt. Holly because of the nice neighborhoods. Now the road is a hazard and this will make it worse. He asked the City Attorney if the City can evaluate the other developments of the developer in making its decision here. Mr. Michael said anyone who applies for a permit must comply with the zoning ordinance, and if they do they are entitled to a building permit; nothing in the zoning ordinance requires inspection of the previous work of any applicant. Mr. Campbell said that with all the opposition present, the Council should delay this matter until the traffic study is done and at least until the full Council is present. Mr. Arthurs spoke again and stated that this plan was submitted prior to the adoption of the new conditional use ordinance and Mr. Ratchford is entitled to a permit; he further spoke to the concern about the quality of construction and stated that the apartments must be built as per the site plan or the County will not grant a Certificate of Occupancy which would prevent the electricity being turned on. Mr. Allen said that the traffic problem is an existing one not created by this project and yet the situation has been addressed with regard to this site plan with the turn lane at Carey Street and the rear entrance on Tuckaseege; he felt the Council cannot penalize every developer on Highway 273 because of a highway problem that hopefully will be corrected in the near future. Mr. Jim Hope, 104 Stoneridge, said he is concerned over the traffic impact, and reminded them that when the developer leaves, we are still here to live with his project; he stated that none of the apartments in Mount Holly are an asset to the community, and Mount Holly should be kept a nice neighborhood of single-family residences; he asked the Council to postpone action until the full Council is present. Mr. Steve Howard, 202B Tuckaseege, said he was unsure if this is a conditional use or not after what he had heard, but he is looking at a parking lot in his

back yard, and a street where there is now a gravel drive on which his children play; he said the people are the law, and they are entitled to have a say in what goes there and this should be delayed. Don Rudisill, Stoneridge, said he moved here from Charlotte to get away from all that development, and he invited the Council to come to his house in the mornings and afternoons and try to get out onto Highway 273; that traffic is already terrible. Pat Howard, 202B Tuckaseege, said her children need a safe place to play, not a thoroughfare, and that she had the two best reasons for not letting this large complex be built with her, her two children. Mr. Bill Crist said Mr. Roberts has said the Council has the prerogative to place items as conditions on this permit, and Mr. Arthurs said this is not under the conditional use requirements; which is it? he asked. Mr. Roberts stated that under recent lawsuits, if they have a permit, they have vested rights, but in his opinion, they would have to have submitted the whole plan to have gotten the permit, and a year ago he was presented with only schematic drawings, and there has been no permit issued. Mr. Allen said this an R-8 zone not an R-8CU and they have gone beyond what is required in order to demonstrate his sensitivity to the neighborhood concerns. Mr. Arthurs said that they voluntarily came before Council even though the ordinance does not require it for this permit application. Mr. Roberts stated that he considers this as falling under the conditional permitted uses with the Council having the right to add conditions it wishes to the permit. Mayor Black stated the Council did not know until tonight there was so much objection to this project. There were no other comments and the public hearing was adjourned and the regular meeting resumed.

Councilman Jessen stated that there seems to be a lot of confusion. He stated that the zoning ordinance and the zone this property lies in allows multi-family construction as a permitted use, but a decision must be made as to whether the new conditional use ordinance for multi-family applies in this case, so he MOVED that the matter be tabled until the next regular meeting, which was seconded by Councilwoman Little and carried with four ayes.

The public hearing for consideration of approval of a conditional use permit for 14 apartment units on Killian Street was called. Mr. David Beaty is the property owner and developer; he had appeared before the Planning Board which has recommended approval, and his site plan complies with both the old and the new ordinances for multi-family use. Notice had been given to adjoining property owners and by advertisement. Mr. Beaty said they will all be one bedroom apartments constructed of brick and vinyl siding; buffers are in place and a park area has been reserved. Mr. John Creekmore, 505 Spring Street, was opposed due to: 1. increased traffic on already congested Highway 273, 2. concern over the width of Killian Street, 3. safety of the children in the neighborhood, 4. the fact that Mr. Roberts said the second building might not be able to be served by sewer without a pump station but Mr. Beaty had told him he could not afford to put up a fence so he can't afford a pump station, and 5. devaluation of single-family residential property adjoining it.

Mr. Creekmore further stated he and his neighbors want to keep Mount Holly a single-family residential community and want to keep apartments out so it will remain as nice as it is; he asked for a show of hands of those who are opposed to the apartments--there were about 20. Emily Ferguson, 601 Spring Street, stated they did not know about the Planning Board meeting the other night, but when they got the notice for this meeting she had helped to get a petition signed (which she presented to the Mayor and which is attached to the minutes as a part of this record), but the ones who did not get a chance to sign the petition had come tonight. Merlin Brown asked if these contractors know that the City cannot supply water on that end of town until the tanks are built. J. T. Henderson, 107 E. Nims Avenue, said the neighborhood is single-family residential and apartments should not be allowed; he further stated he had tried to buy that property in the past and build a house, but they would not sell to him because he is black, but they should have because he has helped to keep his neighborhood and Mount Holly presentable, but now they are going to put apartments on that good house lot. Howard Wooten, 503 Spring Street, said he used to live in apartments and was happy to get out and now they will be next to him, and he said they should build apartments somewhere that is not already surrounded by houses; he was concerned about the traffic and the safety of the children as well. Denise Ross said she is trying to raise her kids and the neighborhood is quiet and they want it to stay that way. Herb Ferguson, 601 Spring Street, asked the Council not to allow the apartments. Mayor Black stated that this Council did not designate the zones in Mount Holly, and that the subject property has been zoned to allow multi-family since in the 1970s. Councilman Jessen said he was hurt and disappointed that no one called him or came to his house to talk to him about this although he lives in Woodland Park with many of the ones in the audience; that he could have perhaps given them information they lack. He stated that what he had to say would not be popular, but the fact is the Council has no choice in this matter and is only permitted to establish the conditions to be required on the permit, and Mr. Beaty has a right to get a permit. Mr. Jessen continued that many of the people here know Mr. Beaty and know he is a good man, and the site plan appears to actually be an enhancement to the neighborhood. Councilman Small said he did not see why the people in Woodland Park object since a creek separates them from this property, and that this property has been zoned for years as R-8 and no one came to have the zone changed. Mr. Small further stated that he has apartments in his backyard and he admitted they were not great for a while, but now they have been cleaned up and they give him no problem. He said Mount Holly is growing, and that apartments must be allowed in some areas anyway, and since this is zoned to allow it and Mr. Beaty has complied with the ordinance the Council cannot legally turn him down. Viney McCorkle said the neighborhood is mostly elderly and they want to keep it all houses without apartments. Councilman Jessen said since Mr. Beaty has complied with the ordinance, that he is entitled to a permit and the Council can only consider what conditions should be required on the permit. There were no other comments. The public hearings were adjourned and the regular

meeting resumed. Councilman Jessen MOVED to approve the building permit requested by David Beaty for 14 apartment units on Killian Avenue with the conditions set forth by the Planning Board; seconded by Councilman Small, and carried by a vote of two ayes and two nays (Little and Harris, who wanted to wait until the full Council is present) with a vote of aye by the Mayor, who stated the City would be in Court if they deny this building permit.

Mayor Black introduced Mr. Phil Ponder who has been selected by Committee and interviewed by the full Council for the position as City Manager. An employment contract had been previously given to the Council for review. Councilwoman Little MOVED to approve the employment contract with Phil Ponder as presented and to authorize its execution; seconded by Councilman Small and carried with four ayes.

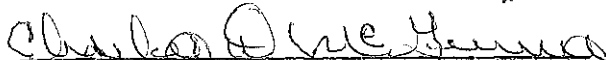
A representative from Johnson & Higgins Carolinas, Inc. answered questions for the Council regarding a proposal for insurance for the City (property and liability) through the Interlocal Risk Financing Fund of North Carolina. He reviewed the differences between this plan and the present insurance. The premium would be approximately \$78,953 per year as the values stand now; however, there was a question about the amount of value currently placed on real and personal property which he felt was too low. City Manager McGinnis stated that if the City changes to this plan, they should make adjustments so that all anniversary dates are the same. Mayor Black said they should talk to former City Manager Young before they raise the values on the property list. Mayor Black appointed Councilman Jessen a committee of one to review the proposal and report back to the Council.

A representative from W. K. Dickson, Engineers, showed photographs of water tanks which have been constructed recently in the area. He said he and the City Attorney and Mr. Nichols had met with the fathers at Belmont Abbey and they have requested a formal presentation of our proposed tank. Mr. Nichols said they would use the same style for both sites. Mr. Michael said that the site owned by the Southern Benedictine Society is immediately next to the site previously identified as the number one site, and the engineers have found this site to be just as suitable if not more so. He emphasized the requirement by the Society that the City present a precise presentation of the style of tank they wish to construct. Councilman Jessen MOVED to adopt the pedestal sphere style for both water tanks, color to be determined later; seconded by Councilman Small and carried with four ayes.

Next, the Council reviewed a Water and Sewer Capital Improvements Plan Application Summary for fiscal year 91/92, as prepared by Eddie Nichols. This pertains to the water line interconnect between the City of Mount Holly and the Town of Stanley along Highway 27. The same plan is being considered for presentation to the County by Stanley. Councilwoman Little MOVED to approve the said Application for fiscal year 91/92 to Gaston County for funding as presented, and to approve the City's share for 91/92 in the sum of \$37,500.00; seconded by Councilman Jessen and carried

with four ayes.

Since Councilwoman Harris needed to leave to travel to Chapel Hill for her seminar training as a newly elected official, Councilwoman Little moved to recess the meeting until February 17, 1992, at 7:00 P.M.; seconded by Councilwoman Harris and carried with four ayes.


City Clerk


Mayor
