Regular Meeting
City Council
January 9, 1995

The regular meeting was called to order by Mayor Charles B. Black, Jr. at 7:50 P. M. Those present were Councilwoman Phyllis Harris, Councilmen Bob Jessen, Archie Small, Michael Helms, R. L. Duke, and Jim Hope, as well as City Manager Phil Ponder, Zoning Administrator Gary Roberts, Zoning Officer Danny Jackson, and a Police Department representative. Public Works Director Eddie Nichols was absent due to illness.

The invocation was led by Rev. Charles Spence.

Councilman Helms **MOVED** to approve the minutes of December 12, 1994, as written; motion seconded by Councilman Harris, with all in favor.

Councilman Jessen **MOVED** to amend the minutes of November 14, 1994 regarding the conditional use rezoning approved for John Fite to correct from "outer line" to "center line", seconded by Councilman Helms, with all in favor.

Mayor Black recessed the regular meeting and called a continued public hearing regarding the rezoning of property along North Main Street of a portion of the old Nims Estate from R-8MF to R-10SF. The developer, Morehead Properties, was represented by Chris Moffatt, and Attorney Henry Whitesides. Mr. Whitesides said they wish to assure the Council they will develop the property in a way that will please them; there would be no mobile homes, no modulars, no multi-family, and at least 10,000 square feet yards. One of their concerns was that the "corrective rezoning" map shows this land as going to R-8SF but the action before the Council is for R-10. Councilman Helms asked what would happen if someone offered to buy the whole tract; they said they would consider selling if an appropriate offer were made. City Manager Ponder stated no permit has been issued, and there are no vested rights at this point. Mr. Moffatt said they are willing to develop at R-10. A woman in the audience said she lives next to the property and is in favor of the whole tract being R-10. Mr. Paige, Woodland Park, was also in favor of R-10. There were no further comments. The Mayor declared the public hearing continued until the next regular meeting in February, and the regular meeting resumed. Councilman Hope moved to hold a public hearing at the February 13 meeting to consider rezoning the R-8 and the R-12 portions of the Nims Estate property to R-10, seconded by Councilman Helms and carried unanimously.

Mayor Black recessed the regular meeting and called a public hearing to order to consider and amendment to the zoning regulations as to side yard setbacks in the R-10 zone, Section 84.4. Councilman Jessen objected to removing side setbacks because of a single event, and noted the Planning Board did not recommend it. Councilman Small was also not in favor, but he would consider a medical hardship. Councilman Hope stated he would like to help her but the Council cannot grant variances; it must be heard by the Board of Adjustment. Mayor Black said the Council can recommend to the Board. There were no other comments from the audience. This public hearing was also continued until the City Attorney's arrival, and the regular meeting resumed.

The architectural agreement for renovations to City Hall with C. L. Helt Architect, Inc. for $10,125.00, was approved by **MOTION** of Councilman Hope, seconded by Councilman Jessen, with all in favor.

The City Attorney arrived at this time and the Mayor recalled the public hearing and asked for his recommendation on the amendment to the zoning ordinance on the agenda. Mr. Michael said the zoning ordinance does not give power to the Council to grant a hardship variance, but that the Board of Adjustment can grant a variance if it so chooses. Councilman Hope said the Board has guidelines they have to follow before a variance can be granted. Mrs. Gail Loftin was recognized and asked when the side setbacks were begun. Mr. Michael said they have been that way since zoning was adopted in the 1960s, and none of the recent changes have involved side setbacks to that zone. Mrs. Loftin said the flooring of the existing deck was not removed and the County told them to attach it. Mr. Michael stated that would have been an appropriate time to come back to the City for further guidance. There were no further comments, and the public hearing was adjourned. The regular meeting was resumed, and Councilman Small **MOVED** that the side setbacks in R-10 not be amended, seconded by Councilman Jessen, but failing, with two ayes and four nays (Duke, Helms, Hope, and Harris). Councilman Small **MOVED** to send the matter to the Board of Adjustment with Council's recommendation they consider a medical hardship, seconded by Councilman Duke, also failing, with two ayes and four nays (Jessen, Helms, Hope, and Harris). Councilman Helms expressed his concern to Mrs. Rick that if the Council changed the setback people would take advantage of it. City Manager Ponder asked Mrs. Rick if her contractor will be able to meet the State building code; the contractor said he will be able to do the fire-rated wall. Mr. Ponder pointed out that the City staff cannot enforce unless Council gives permission to take action against an owner. Mr. Hope noted that hardship was not considered by the Planning Board. Councilman Jessen was upset that the Council has been made to appear the "bad guy" when in fact they have tried to help her, and none of them like to turn her down, but the Council did not create the problem, is trying to solve it, but must follow regulations that are for the good of the whole city. Councilman Small agreed. Councilman Hope **MOVED** to table action on the side yard setbacks amendment, seconded by Councilman Helms, and carried with five ayes and one nay (Small).

At the request of the City Manager and with the support of the auditor, Councilman Jessen **MOVED** that an interim audit be required to be performed upon the departure of any City finance director, seconded by Councilman Hope, with all in favor.

City Attorney Michael asked the Council to bring back up a motion made at the last special meeting workshop for consideration and a vote due to the fact that it has been this Council's habit not to take action on anything not on the agenda when not everyone is in attendance even when everyone present agrees. The Council agreed to do so. Councilman Hope stated that ten months ago a committee was appointed to study the pay plan, who in turn recommended an outside firm be used, which the Council approved. Ms. Veazy, the department heads and the committee met several times, after which Ms. Veazy appeared before Council to review their recommendations. He continued that action was taken to adopt a plan, and all the Council needs to support it for it to successful, although we know in advance there will be "glitches" in the first couple of years. He asked Mr. Ponder to elaborate on the significant changes to the proposal in Number 9. Mr. Ponder said longevity pay benefits were removed, and this will result in six employees who will make less this year than last year, which fact was received negatively at training. Councilman Helms said that with performance review they can make up the difference. Councilman Hope **MOVED** to repeal Section 2-21, Personnel, of the Code of Ordinances, seconded by Councilman Helms, and carried with five ayes and one nay (Small). Councilman Hope **MOVED** to adopt by Resolution #1-5-95(a) the proposed Personnel Policy and Pay Plan, seconded by Councilwoman Harris, and carried with five ayes and one nay (Duke). Councilman Hope **MOVED** to adopt Option 3 previously identified on the proposal, effective with the first pay period in February, seconded by Councilman Helms, with all in favor. Councilman Hope asked all the Council to support the staff now that the decision has been made. (copy attached)

The Council considered the proposed sidewalk improvements. City Manager Ponder noted there is $65,000 in budget for sidewalks near Catawba Heights Elementary and for replacement of a portion of sidewalks on the west side of Main Street. Dave Hostetler and Andrew Stewart, Co-Chairmen of the Revitalization Committee, along with Jim & Linda Fuller and in conjunction with the Chamber of Commerce had made several recommendations. Mr. Hostetler referred the Council to the 1979 study as the basis for them. They recommend: 1. The sidewalks replaced from Central Avenue to Catawba on the west side of Main Street; 2. removing step-up in front of the Lutheran Church; 3. plant trees in planters in any new sidewalk constructed, spaced apart 25 to 30 feet; 4. install brick paver crosswalks; 5. install underground utilities in phases; 6. replace street lamps and red lights; 7. traditional wrought-iron benches along Main Streets and new garbage containers (use old ones in parks). The Committee invited any suggestions or direction from Council. Councilman Jessen was in favor of the concepts, but aware of the cost, and agreed it would not be done all at once. Mayor Black noted the things the City has already done to improve the downtown appearance. After discussion, the Council concurred that the City Manager should proceed as budgeted.

Judi Simac, Interim Zoning Administrator, presented the proposed final plat for Woodhill Subdivision. Eddie Nichols had reviewed it and was satisfied except for a couple of items which will have to be done this spring, and for which Mr. Broome has agreed to post a cash bond with a signed agreement. The Planning Commission recommended approval subject to those items secured by bond. Councilman Jessen **MOVED** to approve the final plat for Woodhill Subdivision subject to execution of the agreement and posting of bond for completion of the items required by Mr. Nichols for compliance and the one year warranty period, seconded by Councilman Duke, with all in favor. Councilman Jessen **MOVED** that the City enter a maintenance guaranty agreement with Mr. Broome upon posting of a certificate of deposit for bond, seconded by Councilwoman Harris with all in favor.

Upon recommendation of the Planning Commission, Councilman Hope **MOVED** to set a public hearing for the February 13 regular meeting for consideration of rezoning the property on North Main Street owned by Crescent Resources and known as Northpointe Industrial Park from R-12, H-I, and R-A to L-I/CU, seconded by Councilman Duke, with all in favor.

Councilman Hope **MOVED** to adopt Resolution #1-9-95(a) directing the City Manager to investigate a petition for voluntary annexation for the Northpointe Industrial Park property, seconded by Councilman Jessen, with all in favor. (copy attached)

Because the staff had already been reviewing the proposals and meeting with the developer as to the Northpointe site, the City Manager presented his Certificate of Sufficiency (copy attached).

Councilman Hope **MOVED** to adopt Resolution #1-9-95(b) to set a public hearing to consider the voluntary annexation of the Northpointe site at the February 13 regular meeting, seconded by Councilman Helms, with all in favor. (copy attached)

City Manager Ponder said the deadline for applications for Zoning Administrator is January 20. He had taken several quotes on planning consultants and the best offer was by Earth Improvement Technologies. The City Manager controls which items are addressed by the consultant. Councilman Jessen **MOVED** to enter into an agreement with Earth Improvement Technologies for planning consultant services, effective January 3, 1995 (the date Judi Simac began), seconded by Councilman Hope, with all in favor.

The request for a sidewalk in the DOT improvements on Highway 27 and the bridge upgrade had been approved, but DOT has required that the City pay for relocation of our utilities. Mr. Ponder recommended having DOT relocate them and bill the City, for which the State will allow the City to pay in installments. A contract for the same has been presented and reviewed by Council. Councilman Jessen **MOVED** to adopt Resolution #1-9-95(c) regarding the reimbursement to the State for relocation of our utilities by DOT in connection with the sidewalk addition to the bridge project, seconded by Councilman Duke, with all in favor. (copy attached)

City Manager Ponder had received a proposed renewal of franchise document that day but needs time for review. Councilman Jessen **MOVED** to approve a temporary extension of the cable television franchise until the renewal contract can be adopted, seconded by Councilman Duke, with all in favor.

Two budget amendments were approved upon **MOTION** by Councilman Duke, seconded by Councilman Jessen, with all in favor. They are:

General Fund--Fire Department/

Increase Account #100-530-5-343.00, Catawba Hts. VFD, $725.00; Decrease Account #100-420-5-789.00, Contingency, $725.00. Explanation: City Manager did not budget 2.9% CPI adjustment to base contract fee of $27,000 resulting in underbudget of account.

General Fund--Revenue/

Increase Account #100-4-226.00, Cable TV Franchise Tax, $23,000; Decrease Account #100-000-4-225.00, Privilege License, $23,000. Explanation: No additional monies budgeted; budget amendment simply separates Cable TV Franchise money into a separate account.

Tax releases in the amount of $110.25 were approved upon **MOTION** by Councilman Jessen, seconded by Councilwoman Harris, with all in favor.

There were no complaints or petitions not on the agenda.

Councilwoman Harris reported a complaint by Mrs. Fuller on South Main Street that water is standing on her driveway and washing soil away because of the work that was done. The City Manager will check on this.

Mayor Black said a request has been made for maintenance of a road with four houses off Clearwater Lake Road next to the railroad. The City Manager will contact the residents and provide them with a copy of the Catawba Heights Annexation street policy.

City Manager Ponder stated that the Grady Stamey appeal was heard in court and he has lost, but has not moved out. Nothing has been done because of the holidays, but the staff will proceed unless the Council objects. They asked what would happen next. City Attorney Michael said if he files the "Execution", the legal document to enforce the City's Order of Condemnation and Removal, the Sheriff will set a date and send a notice to Mr. Stamey, and on that date if he has not moved, they will remove him. Mr. Michael stated he has never had to do this before, that Mr. Stamey is over 80 years old, and it is cold weather. He reported that he and the City staff have done everything to try to help him get into public housing, but he has refused all help, even from his family. The house, he stated, is on Alsace, but not very visible from the road. When he had gone by the yard, mostly dirt, had been raked, and the neighbor said he does it to see if anyone has been there while he is gone. Councilman Small was concerned that Mr. Stamey might burn himself up with that stove of his and the condition his house is in, and then the City will be blamed for that. Mr. Ponder stated that unfortunately the City has continued to receive numerous complaints from his neighbors who call the police because of trouble caused when his so-called friends show up at the first of the month when his government check comes. After further discussion, the Council decided to re-consider this matter in April.

There being no further business, the meeting was adjourned upon motion by Councilman Duke, seconded by Councilman Small, with all in favor.

Phillip S. Ponder, Jr.
City Clerk

Mayor

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