CITY COUNCIL
REGULAR MEETING
January 8, 2007

CALL TO ORDER BY THE MAYOR
The regular meeting of the City Council of Mount Holly was called to order at 7:00 p.m. by Mayor Robert Whitt. The following were present:
Mayor Robert Whitt
Mayor Pro-Tem Phyllis Harris
Councilman Jerry Bishop
Councilman Jim Hope
Councilwoman Pat Hubbard
Councilman Frank McLean
Councilman David Moore
Interim City Manager Ed Munn (to be in effect 02/01/07).
Assistant City Manager Danny Jackson
Assistant City Manager Jamie Guffey
Community Development Planner Greg Beal
Police Chief David Belk
Fire Chief Dale Oplinger
Street and Solid Waste Director Mike Santmire

INVOCATION
The invocation was led by Reverend Jeff Bost of Westview Presbyterian Church.

PLEDGE OF ALLEGIANCE
Boy Scout Troup #59 led the Council and audience in the ceremony of the Pledge of Allegiance.

APPROVAL OF THE AGENDA
The agenda was approved with removal of consent agenda #2 to move it to #6 under unfinished business, upon motion by Councilperson Harris, seconded by Councilperson Moore, with all in favor.

CONSENT AGENDA
Councilperson Moore **MOVED** to approve the Consent Agenda with changes noted below, seconded by Councilperson Bishop, with all in favor. The items approved were:
CA#1. To Accept and Approve the Minutes.
CA#2. To call for a Public Hearing to consider adopting The Strategic Plan. (This item was moved to #6 under unfinished business).

PRESENTATIONS
PR#1 City Audit Report, made by TJ Wilson, Cherry, Bekaert & Holland. Mr. Wilson provided disclosures reflecting responsibility under GAAS and government auditing standards, independence, significant accounting policies, management

management judgments and accounting estimates, significant audit adjustments, summary of audit differences and other information in documents containing audited financial statements. In addition, Council was given a packet containing information on audit reports, net assets, trend analysis, property tax trends, and other information relating to accounting and financial reporting by employers for post-employment benefits other than pensions. This packet was related specifically to the City of Mount Holly. (attached for City record). Mr. Wilson discussed information in detail pertaining to financial packet that was provided to Council members in advance of the meeting. (For the record, minute clerk does not have a copy of this to attach to the minutes). Mayor Whitt inquired about restricted assets listed on page 11. Mr. Wilson stated the number he questioned was unspent bond proceeds. Mr. Wilson stated this portion of the statement was presented on a full accrual basis of accounting. This statement, then, would reflect taxes billed rather than taxes collected. He highlighted specific items during his discussion that needed attention of Council. When the budget was prepared, there were expenses in excess of revenue. Funds reserved due to state statute which primarily represents receivables as of 06/30/07 were discussed. A lot of this is related to sales tax revenue that has not been collected for the 06/30 period. Government requires the city to hold that amount for fund balance. Mayor Whitt asked if it was fair to say the undesignated fund balance is pretty much what we have to spend as we need it and all other funds are earmarked so to speak? Mr. Wilson stated that is correct. Mr. Wilson then discussed the difference between full accrual sheets versus modified accrual sheets in packet. There are 13.3 million dollars of governmental assets. He went over operating and non-operating revenue, grants, etc. Mayor Whitt questioned the term "assets" being used in department reports. Mr. Wilson stated all assets are not liquid. Mayor Whitt asked about an item on page 46 relating to the Stanley water agreement. Mayor Whitt asked about the management letter referenced in this packet as Council has not had the opportunity to review this item. Mr. Wilson stated Mr. Guffey does have this letter for reference. The GASB 45 policy will be enforced for the City of Mount Holly in Fiscal Year 2010. This information is detailed in the packet given to Council. The state of NC actually got valuation obligations at $1 billion dollars. This demonstrates the potential impact this could have. If this number becomes large, it could impact your bond ratings, etc. The state of NC has set up an agreement to make valuation for city entities. This has to be done by 2009, one year prior to recording of the liabilities in fiscal year 2010 relating to this policy. This has the potential to have a significant impact. Mr. Munn stated many cities have signed up to analyze this. Some of the larger cities are working with state to uniform this process across the state. Mayor Whitt asked about a shortfall in our water / sewer account last year. He asked has this been corrected with new budget review? Mr. Wilson stated yes that is reflected as a profit with new rate increases. Mayor Whitt asked about 9 million dollar debt, does it include bonds? Mr. Wilson stated no, it does not include bonds in this report. Mayor Whitt asked if the management letter referenced the one with suggestions on how to improve listed items. Mayor Whitt asked about date on information of 10/18/06. He asked that information be presented earlier in the process next year. Mr.

presented earlier in the process next year. Mr. Wilson stated he would try to push it up as much as possible.

Note: It was difficult for minute taker to follow during this discussion without the financial statement packet to follow pages referenced.

PR#2 Update Regarding the Tuckaseege Park Expansion by WK Dickson. Mr. Steve Whaley of WK Dickson presented Phase 1 for the budget and plan for backbone of Tuckaseege Park. (Attached for City record). He presented a drawing to Council showing improvements to be made during phase 1. Mr. Whaley stated at this point, the funds for parking and grading have come in higher due to price increases. After talking to the state today about allocations for building, we can work with them to either size them according to what we can allow for the park or work within the budget comfort. Mayor Whitt stated when I add budget together from this information to the information in our packet for phase 2, is this an estimated total? Mr. Whaley stated total estimate as of today is 1.6 million rather than 1.3 million. Ms. Harris stated the rec committee met regarding this, but if you remember when we talked about this initially, the budget for this was realistic, but each day prices go up and we feel if we wait any longer, it will be more than this. The committee felt like we should ask Council to have this total and go ahead with it to avoid additional price increases. Mr. Whaley stated if you look at funding with PART F input, they are paying about half of the price on the cost estimate given to you tonight. Mayor Whitt stated in final analysis, state will allow $500,000. Mr. Whaley asked for Council consent to move forward with phase 1 budget and put it out to bid in the latter part of this month.

Motion: Mr. Hope moves to proceed with budget presented to Council for phase 1 of Tuckaseege Park Expansion, seconded by Ms. Harris.
Discussion: Mr. Moore stated recreation committee felt this is a good time to get this moving to avoid further price increases. Mr. Hope asked how we will handle the additional price on this cost estimate? Mr. Hope asked when is anticipated completion of this phase? Mr. Whaley stated it would begin in March. Mr. Munn stated all money should be budgeted prior to contracting to meet all obligations. Mr. Hope stated it would be feasible that we could borrow fund balance and pay it back from the next fiscal year. Mr. Munn stated this is the first phase of a large project which will go over three fiscal years. This should be set up as a capital project and fund it over those three years. You have to make sure as bids are accepted, there is money in the capital fund to cover that. Mr. McLean stated we do not want to dig this parking lot back up, due to sewer line issues. We need to make sure this sewer line is not going to be an issue after the parking lot is completed. Mr. Bishop had brought up this topic of discussion moments before and made the comment that we need to be absolutely certain there will not be an interference with the two projects.
Vote: All in favor. Passes unanimously. CARRIES.

PR#3 Report from the Planning Commission by Mr. Bill Gary. Mr. Gary stated the commission has been hard at work trying to accomplish mission given. At this point, we have still not completed all at hand even with additional meetings. We are exploring conditional zoning versus conditional use zoning which could help us have more candid conversations and planning as proposals are brought to us by developers. We are researching tree ordinances, mass grading, impervious surface ordinances, etc. We have talked to builders already building in this market. We desire to talk to additional upscale builders that are not yet building in this market. We are working hard along with staff to provide a product that we will all be happy with and proud of years from now. Mr. Whitt stated he appreciates all efforts made by the Planning and Zoning Commission.

MANAGER'S REPORT

Mr. Munn stated in the few days he has been here, he has found Mt. Holly to be an incredibly friendly and open city. There is also a strong sense of optimism about the community and the direction in which it is headed. There is an implementation worry and an impatience to get these things done. In looking at the long list of projects underway, I would like for us to place focus and priority on some. We need to get to all of them, but some have to be dealt with right away. Clearly the citizen's center, development standards, streetscape issues, staffing issues, process for city manager placement are immediate concerns.

Mr. Guffey stated Donna Lumsden has taken a job with Bessemer City as finance director. Her last day here will be February 9th. Ad has run in the paper and I have gotten between 60 to 80 applications. Some are definitely not qualified, some are over qualified. Due to Independence rules, TJ Wilson cannot assist with interviews etc. The job may be getting two big for one person, and that is one reason why Donna chose to move to Bessemer City. I may have to come back to you and possibly split the job into two, an accountant and an accounts payable position. One recommendation last year from auditors was an accounts payable position. Due to staffing constraints last year, we were unable to do this. Donna is spending an entire week doing nothing but accounts payable right now. We have talked about paying every other week as opposed to every week. The work will still be the same. Hopefully we will start setting up interviews next week. This has appeared in the observer and the gazette, and is listed on www.careerbuilders.com as well. Mr. Munn stated we do need to discuss this further and Mr. Guffey and I will be working on this together. This is a matter of priority.

COMMITTEE REPORTS

Wendy Foster, Stormwater Committee – Ms. Foster stated we are 85% complete with stormwater discharge ordinance at this point. We have been visited by Gaston Natural Resource Dept stating they are interested in doing a county-wide ordinance. We have reluctantly halted our process as we thought perhaps council would like to move forward with county organization. We also took some time to time to review the fees that we are presently charging for residential and commercial. We see a disparity on commercial charges. I understand consent agenda last month had a hearing scheduled for this. We look forward to this hearing in February. Mayor Whitt stated he appreciates all of the hard work coming from this committee. Ms. Foster stated county ordinance will not be ready for a few months. We actually as a committee were ahead of the county. Consensus of Council to have our committee move forward with ordinance construction . Ray Clemmer also addressed council regarding this topic. Ms. Foster stated we are working on a design manual to correlate with the ordinance.

UNFINISHED BUSINESS

UFB#1 To Consider adopting Guaranteed Maximum Price for Citizens Center. Mr. Michael stated in Council's packet, they reviewed the figure of guaranteed maximum price (GMP). It shows the GMP and performance bond along with construction contingencies. Preconstruction services fee is also included, this may be earned and not paid. Mr. Guffey sent an additional memo out to Council discussing items not included. The city is required to pay and secure different construction permits as required for construction per Mr. Michael. In the preconstruction agreement, it states once GMP is established, there would be an amendment to preconstruction manager at risk contract setting forth those figures. Mr. Michael passed out this contract for council review. Kevin, with Cox and Scheppe, has been working on this at length and is here to answer any questions if needed. Mr. Michael stated this is a negotiated figure between the city and construction manager at risk. There have been ongoing estimates and changes during preconstruction time frame trying to lower this price. Mr. Guffey can comment on whether this is within budget guidelines as approved by Council previously. Mayor Whitt asked Kevin Breed from Cox and Scheppe to come to the podium to answer questions by Council. Mayor Whitt asked Kevin about allowances listed on this addendum. Kevin stated allowances are based on our judgment from prior estimates from subs based on scope of work. Mr. Hope asked Kevin about allowances not changing figure to exceed. Is this correct? Mr. Breed stated that is correct. Mr. Hope asked if at anytime the Council decides to, we have a right to bring this number down with changes, is this correct? Mr. Breed answered yes, that is correct. National Gypsum is donating the board for this project. Mayor Whitt stated at this time Council is happy with where we are right now.

Motion: Mr. Hope moves that we accept the amount not to exceed addendum prepared by City Attorney. Seconded by Mr. Bishop. Assigned Resolution # 010807A.
Vote: unanimous. CARRIED.

UFB#2 To Consider Contract approval for Construction Manager at Risk Contract. Mr. Michael passed out addendum to the project. The provisions of standard form of contract used by state of NC is incorporated by reference into this contract. There are facets of that referenced form that need amendment and are amended are amended by exhibits attached. This contract makes reference to the addendum adopted tonight for GMP. This matter goes before the LGC in early February for their approval. This has to happen before work can begin. On exhibit B, there is a form there without dollar amounts because at this point the figures are not available for my review. If this is adopted tonight, it will be adopted with the understanding that staff will work to obtain coverage amounts and they will have to cover amounts required by law with umbrella policy. There is sufficient time left to obtain this. Page 2, first full sentence, states in event cost plus contractors fee is less than the GMP, the savings shall accrue ___% to the owner and ___% to the construction manager at risk, the city shall get full benefit of deduction from GMP. Mr. Michael stated at the end of the day, if the cost including fee to contractor at risk comes in under GMP, then we will save money. Essentially their fee is based on 10% of what cost of project equals. We are looking to see what actual total cost of project equates to and if it comes under GMP, this agreement will detail where and to whom savings is applied. Mr. Michael stated Council needs to determine the percentages to be filled into this contractual agreement. Mr. Hope asked are we talking about the items in which they have not gotten bids for and they will sub out or do it theirself or are we talking about value engineering numbers out of this? If this is on items they are "subbing" themselves, there should be a fee they would recover, otherwise they should not receive anything additional. Mr. Hope asked Mr. Michael if Cox and Scheppe have reviewed this? Mr. Michael stated this has been discussed, wording of this was discussed as well. Mr. Hope stated motivation needs to be in place for them to seek out the best price for each item involved in the GMP. Mr. Michael stated with savings due to less contract price by subs than the initial estimate, they would still get the fee but the cost of the work which we would be paying essentially, we would get benefit of that coming in under GMP, with them being credited 10%. Mr. Michael stated this would be done as a whole with the GMP, not on a line item basis. Mr. Michael stated if you as a Council adopt this tonight, it does not mean that Kevin is approving this for Cox and Scheppe. It will be up to them to accept it or not. Mr. Michael stated he has in 90/10 as percentages currently unless Council would like to modify that. This would be filled in blanks of paragraph 2 of the contract draft presented by Mr. Michael to Council. Mr. Michael stated this will hold the City harmless if they fail to comply with any part of state statute.

In paragraph 5, there are blanks left for liquidated damage clause in contract. The amount of dollars per day for the first thirty days needs to be determined, and amount per day thereafter needs to be determined as well. It was decided by Council to change 12 months clause in this paragraph to be amended to 15 months. So noted by Mr. Michael. Consensus by Council to fill in blanks as the amount of 100 dollars per day for the first 30 days, and thereafter 500 dollars per day. Mr. Michael stated generally contracts have a per day amount to be charged due to lack of completion due to fault of the contractor. In the past, the council has been very understanding and looked at actual damages versus liquidated damages and has lowered amounts due to this.

Mr. Hope asked Mr. Michael, referencing paragraph 6, are we tying the 15 months to the notice to proceed or to the permit? Mr. Michael stated this will tie to the notice to proceed if left un-amended. Mr. Breed stated plans have been approved through the County.

Mr. Michael discussed the benefit of having an arbitration agreement, as described in paragraph #9. If you would rather have mediation in lieu of arbitration, we can change this. This is something for Council to consider. Mayor Whitt stated if legal council is comfortable with this, City Council is okay with arbitration agreement.

Mr. Michael discussed paragraph #11, in the event of a conflict, and which contract would take precedence between our contract and the state contract.

Mr. Munn stated due to the upcoming maternity leave of our deputy city clerk, we need to designate another deputy city clerk to be able to attest and sign documents on behalf of the city.

Acting City Manager is Danny Jackson, so he should attest this document as Mr. Munn will be acting manager effective 02/01/07.

Motion: Mr. Bishop moves to accept contract as amended 010807B, seconded by Mr. Moore.
Vote: All in favor. CARRIES.

UFB#3 To Consider Self Perform Work for Citizens Center. Mr. Michael stated if after 2nd bid, there are not adequate qualified bids, the manager at risk can present a figure for what they will charge to do the work and council would vote to approve that. Mr. Michael stated a list can be provided to Council for worksession in February if Council desires so vote can take place at that time. The work that they are proposing to do is already in the GMP you have adopted previously in this meeting. You could discuss all of these subcontract issues at one time. Consensus by Council and Mr. Breed to discuss this at February work session.

UFB#4 To Discuss Streetscape issues. Mr. Whaley stated DOT issues have come up with streetscape. I have tried to get in touch with regional DOT manager so I sent an email to him outlining all points that we had gone over in our meeting and explained process we had already been through as well as with the railroad so we could finish traffic signal work. I have not heard back from them until late this afternoon. They are trying to schedule a meeting to be here on January 16th. They are trying to get a few things that they felt they did not get to look at enough. At that point, we will try to get all of this settled. Meter locations, covering bolts, etc are a few points being discussed at this time. Mr. Hope stated when I saw that, I was appalled. We let this get by somehow. What I do not understand, stated Mr.

UFB#5 To Discuss Public Hearing on Storm Water Fees. This has been scheduled for next public meeting.

UFB#6 To Discuss Public Hearing on Strategic Plan. Mr. Hope stated I have a problem with this without having a document to review prior to the public hearing. Mr. Jackson stated this was by request of consultant. Consensus by Council to wait on this.

NEW BUSINESS
NB#1 To Consider extending the moratorium on residential annexations. Mr. Hope stated the intent of the council was not to put the planning and zoning board on a deadline. It was the intent to move as quickly as possible keeping the best interest of our city in mind. Mr. Hope stated when you present additional information to council, please present it to us in an itemized form.

Motion: Mr. Hopes moves to extend moratorium to March 13th, seconded by Ms. Harris.
Discussion: Ms. Harris stated she is proud of all the members of the planning commission and we appreciate all of the input. We need this to make an educated decision.
Vote: All in favor. CARRIES.

NB#2 To Consider search process for a permanent City Manager. Mr. Munn stated the City can work with COG during this process. The council needs to address what they are looking for, the type of candidate, etc. The worksession retreat in February will be the ideal time to discuss this in detail. If you are looking for a local candidate, we do not need to hire a national recruiting company. If you are looking nationwide, then you obviously would hire a national recruiting company to help with the process. Mayor Whitt asked if it would be advisable to publish an ad in periodicals at this point to let the general public know we are looking to fill this position? Mr. Munn stated he would wait until Council is sure of salary, benefits, approach, qualifications, etc. There is a time in which you have to advertise. It is important for the Council to talk about. When you make a city manager position, you need someone who can implement all of these projects.

NB#3 To Discuss Blanche Street Draining Issues. Ray Clemmer, Storm Water Committee, stated we became aware of this problem after Mr. Brown brought the initial problem to our attention. As we traced the ditch to see where it went to, we discovered it has undermined a water and sewer line through Margie Street. We took immediate action to secure that and started negotiations with WK Dickson to come up with a resolution. I did receive a contract of services. We reviewed that and it was signed and mailed back to them last week. Spoke with Rob Ruth, who will be the engineer working on it and the only thing we are waiting on is to wait to waiting on is to wait to hear from Calvary Baptist Church as we need to place a water retention pond on their property as part of this project. As long as they are receptive, we will move forward. If not, we will have to rework. Mr. Martin's complaint has been reviewed, and based on water calculations, it is not a water increase, it is a faster rate issue. He has made some new drawings that will call for rock to be placed in the valley on Smith Street and on Louise. This should help slow the water down. I did bring to him the concern about the size of pipes under the driveways on Blanche. He is working on calculations to determine requirement there. I have assured Mr. Martin that we are doing all we can to make sure his interests are protected. Mr. Bishop stated he went out there yesterday, and with the rain, it was running very well. Mr. McLean stated the only time there will be a big problem will be with a big rain. He stated he is worried more about the Blanche street portion.

PUBLIC COMMENT
Mayor Whitt opened the floor for public comment.

PC#1 Scott Griffin, Oakland Street, Mount Holly, NC. (Chairman of FROGS.) Stated to Council that they have done the right thing moving forward with the Tuckaseege park expansion approval tonight. He stated the planning and zoning committee is very meticulous and I was amazed at the meeting last week. Mr. Joel Lineberger is here with me to extend an invitation on 01/23/07 for presentation of design for riverwalk greenway and master plan of greenways and trails in our committee. The community development foundation will pay for this presentation. We encourage involvement with this. Duke Energy will be present for this presentation as well. He thanked the Mayor and City Council and stated they look forward to seeing them at this upcoming presentation.

PC#2 John Martin, 201 Margie Street, Mount Holly. Mr. Martin stated Blanche Street is two blocks long and this terrible water comes down from the garden center. Mr. Friday (Utility Mgr) wants to cut across and put that water in this ditch. That water has overrun my ditch for years, it cannot handle any additional water. There are two pipes coming into this drain. All they need to do is pull out the smaller pipe, it is like a "stopper". Mr. Jackson, Mr. Beal and Mr. Eller were at my home this morning and I talked to them about this problem. He talked about his experience with Mr. Friday and stated Mr. Friday was unwilling to help him with this.

ROUND TABLE

Mr. Bishop stated from Catawba Avenue up to Hawthorne- there needs to be additional street lights. It is too dark.

Mr. Whitt stated the next meeting is the February work session. He asked if Council wanted department heads to come and make presentation at this meeting? Consensus by Council to have them speak at work session.

No additional roundtable comments from Council.

ADJOURN

There being no further business, the meeting was adjourned, upon motion duly made by Councilperson Hope , seconded by Councilperson Moore, and carried.

10:16 PM

Danny J. Jackson
Clerk

Mayor

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jmb