CITY COUNCIL
REGULAR MEETING
October 13, 2003

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 Black. The following were present:

Mayor Robert D. "Bobby" Black
Mayor Pro-Tem Jim Hope
Councilman Michael Helms
Councilwoman Phyllis Harris

Councilman Frank McLean
Councilman Bryan Hough
Councilwoman Pat Hubbard

City Manager David Kraus
Finance Asst. Jamie Guffey
Utilities Dir. Don Price
Planning & Zoning Dir. Danny Jackson(absent sick)
City Attorney Kemp Michael
Police Chief Rick Davis, retired
Fire Chief John Calder
Street & Sanitation Dir. Mike Santmire
Zoning Officer, Greg Beal

INVOCATION
The invocation was led by Councilman McLean.

PLEDGE OF ALLEGIANCE
Troop 59 led the Council and audience in the ceremony of the Pledge of Allegiance.

APPROVAL OF THE AGENDA
The agenda was approved with amendments, as follows: add Consent Agenda #6, call for public hearing, tabled Presentation #1 Gaston 2012, delete Presentation #3 Honoring Miss Mount Holly, to be done on Saturday instead, add Presentations #7 & #8 by John Cato and Laura Hutchins, add Unfinished Business #3 letter from Attorney Stancil, and delete New Business #1 mobile restaurant, upon motion by Councilman Helms, seconded by Councilman Hope, with all in favor.

CONSENT AGENDA
Councilman Harris **MOVED** to approve the Consent Agenda with 6 items, seconded by Councilwoman Hubbard, with all in favor. The items approved were:

CA#1. To Accept and Approve the Minutes. Minutes for September 8, 2003 were approved as written.

CA#2. To Approve Contract for Bridge Inspections. NC DOT to inspect the City bridges.

CA#3. To Approve Supplemental Appropriation for Fire and Rescue Department. Purchase of turnout gear from the close out of a bank account from the Lifesaving Crew due to merger.

CA#4. To Approve Supplemental Appropriation for Police Department. A $1,000 anonymous donation from a citizen for the neighborhood crime program will be used for a digital motion camera, a digital still camera and supplies.

CA#5. To Accept Phase I of Creekside Estates. City accepts infrastructure for maintenance.

CA#6. To Call for a Public Hearing for Speed Limit on Tomberlin Road. Set for November 10, 2003.

PUBLIC HEARINGS

PH#1 To Consider Stop Signs at Walnut and Spring Streets

Councilman Helms moved to go into a public hearing to consider stop signs at Walnut and Springs Streets, seconded by Councilwoman Harris, and unanimously carried. Mayor Black recessed the regular meeting and called to order the public hearing. City Manager Kraus said he had received a request for stop signs at Walnut and Spring, due to poor visibility for cars at that locations. Mr. Kraus had received a message from the property owner at that corner who states she will trim back her bushes, but even with that you may still want the four way stop.

Willy Rhyne, 208 Walnut Avenue, a resident of 50 years. He said there is a blind spot there, and he has seen many close calls for accidents, and people go too fast, and he felt the four way stop signs would be a good idea. There were no other comments.

Councilwoman Hubbard moved to go out of public hearing, seconded by Councilman Helms, and unanimously carried. Mayor Black adjourned the public hearing and resumed the regular meeting.

Motion: Councilman Hough **MOVED** to approve a four way stop at the intersection of Walnut and Spring Streets, seconded by Councilman Hope.
Vote: unanimous. CARRIED.

PH#2 To Consider Rezoning of the Train Depot

Councilman Helms moved to go into public hearing, seconded by Councilman McLean, with all in favor. Mayor Black recessed the regular meeting and called to order the public hearing to consider rezoning the train depot property.

Zoning Officer Greg Beal presented proposal for rezoning of two lots of land on East Central Avenue, one being the old train depot and the second being an adjoining 7/10 acre lot, along with orders granting conditional use permits for the two lots. The rezoning is from H-I to B-3 conditional use. The Planning Commission unanimously recommended approval with the addition of the condition that no outside storage be allowed. Mayor Black said that the owner was present. He stated that they are in the process of putting the train depot on the historic registry, and it is being remodeled. No comments for or against.

Councilman Helms moved to go out of public hearing, seconded by Councilman McLean, with all in favor. Mayor Black adjourned the public hearing and resumed the regular meeting.

Councilwoman Hubbard noted that on the plat that was in the agenda packet, there was a .25 parcel and a .70 parcel, but she thought there was also a discussion about a small piece that he is talking with the Masseys about, and she wondered what happened about that. That is adjacent to the Massey property and has already been taken out of this consideration. He split the parcels so that he did not have to list the .70 acre with the historic registry.
Motion: Councilwoman Hubbard **MOVED** to rezone the .25 acre parcel known as the old train depot on East Central Avenue from H-I to B-3CU, seconded by Councilman Hope.
Vote: unanimous. CARRIED.

With regard to the .25 acre parcel just rezoned, the Council made the five following affirmative findings of fact as required for a conditional use permit:
Councilman Helms moved to adopt the Finding of Fact A, seconded by Councilman Hope, with all in favor.
Councilman Helms moved to adopt Finding of Fact B, seconded by Councilman Hope, with all in favor.
Councilman Helms moved to adopt the Finding of Fact C, seconded by Councilman Hope, with all in favor.
Councilman Helms moved to adopt Finding of Fact D, seconded by Councilman Hope, with all in favor.
Councilman Helms moved to adopt Finding of Fact E, seconded by Councilman Hope, with all in favor.

City Attorney Kemp Michael stated that the .25 acre tract is shown as Tract #1 on plat by R. B. Pharr & Associates, P. A, R. S., dated August 14, 2001, and approved by the Mt. Holly Zoning Director. Greg Beal said it is identified as 530 East Central Avenue. Mr. Michael said that the proposed order needs to be amended to say at #2 that the list of uses as shown on Exhibit A be applied, and that no outside storage is allowed.
Motion: Councilwoman Hubbard **MOVED** to adopt Res. 10-13-03A as amended, Order Granting Conditional Use for the .25 acre tract identified on said map and known as 530 East Central Avenue, seconded by Councilman Helms.
Vote: unanimous. CARRIED.

PH#3 To Consider Rezoning Vacant Lot Adjacent to the Train Depot
Councilman Helms moved to go into public hearing, seconded by Councilwoman Harris, with all in favor. Mayor Black recessed the regular meeting and called to order the public hearing to consider rezoning the .70 acre vacant lot adjacent to the train depot property.

Zoning Officer Greg Beal presented the proposal for rezoning this lot, along with an order granting conditional use permit. The rezoning is from H-I to B-3 conditional use. The Planning Commission unanimously recommended approval. No comments for or against.

Councilman Helms moved to go out of public hearing, seconded by Councilman McLean, with all in favor. Mayor Black adjourned the public hearing and resumed the regular meeting.

Motion: Councilwoman Hubbard **MOVED** to rezone the .70 acre parcel adjoining the old train depot on East Central Avenue from H-I to B-3CU, seconded by Councilman Hope.
Vote: unanimous. CARRIED.

With regard to the .70 acre parcel just rezoned, the Council made the five following affirmative findings of fact as required for a conditional use permit:
Councilman Hough moved to adopt the Finding of Fact A, seconded by Councilwoman Harris, with all in favor.
Councilman Hough moved to adopt Finding of Fact B, seconded by Councilwoman Harris, with all in favor.
Councilman Hough moved to adopt the Finding of Fact C, seconded by Councilwoman Harris, with all in favor.
Councilman Hough moved to adopt Finding of Fact D, seconded by Councilwoman Harris, with all in favor.
Councilman Hough moved to adopt Finding of Fact E, seconded by Councilwoman Harris, with all in favor.

City Attorney Kemp Michael stated that the .70 acre tract is shown as Tract #2 on plat by R. B. Pharr & Associates, P. A, R. S., dated August 14, 2001, and approved by the Mt. Holly Zoning Director. Greg Beal said it is identified as 520 East Central Avenue. Mr. Michael said that the proposed order needs to be amended to say at #2 that the list of uses as shown on Exhibit A be applied.
Motion: Councilwoman Hubbard **MOVED** to adopt Res. 10-13-03B as amended, Order Granting Conditional Use for the .70 acre tract identified on said map and known as 520 East Central Avenue, seconded by Councilman Hope.
Vote: unanimous. CARRIED.
Mr. Guignard said they are in the process of repairing the roof, and that he appreciates the assistance of the city staff, and looks forward to working with all of Mt. Holly.

PH#4 To Consider Rezoning Rhyne Family Property at 1213 West Catawba Avenue
Councilman Hope moved to go into public hearing to rezone the Charles Rhyne and family property on West Catawba Avenue, seconded by Councilwoman Harris, with all in favor. Mayor Black recessed the regular meeting and called to order the public hearing. Greg Beal stated that last Monday this matter came

before the Planning Commission to consider rezoning the property from R-12 to R-8, and they held a public hearing, but they recommended action be tabled until an accurate map of the property be presented.

Doug Painter, 1125 W. Catawba Ave. My wife and I teach school at Pinewood. This subdivision plan was originally presented to be a nice neighborhood, but this proposal is not what they originally presented it to be; the houses would all too be close together. We don't want it like that.

Mike Strader, 101 Fites Creek Road. My concerns are that we moved to Mount Holly and chose our home and entered into a neighborhood with restrictive covenants which were set forth by the Rhyne family when they subdivided that. The number of homes per acreage were good because it maintains the value. I share the highway and property line with Belmont Textile, and I adjoin the creek which has a small waterfall and environmental issues. There is a 100 year flood plain on that creek, and anything that would change that by development of the property would not be a good idea. Any change to the creek would be wrong. There will be even more traffic involved than there already is; the speed limit is 45 mph but people speed constantly. We do not want the value of our property lowered by having such small lots. (He gave Council a copy of his restrictions)

Frank Chicobis, the developer along with Mike Bunting, stated they don't want to comment on the plan we prepared and presented because we have not gotten an answer from the Planning Commission yet. We have always collaborated with the town planners and the neighbors in our developments. During the planning commission hearing, Mr. Jones said he had questions about the location of the creek. We used a 1988 survey that we believed was accurate; however, we have agreed to have a new survey done at an expense of about $7,000, and we have no intention of violating any boundary lines or environmental issues. We expect to have the survey in about two weeks and have invited the neighbors to meet with us when we receive it.

Motion: Councilwoman Hubbard **MOVED** to recess this public hearing until next month's regular meeting, seconded by Councilman Hough.
Vote: Unanimous. CARRIED.

Mayor Black recessed this public hearing, and resumed the regular meeting.

PRESENTATIONS

PR#8 Presentation by Laura Hutchins

Laura Hutchins operates a business on West Central Avenue. She stated that she felt that she was being abandoned by the City, because she had about 3 feet of water after a storm, but she understands now that hers was not the only place. There was also sewage in the water. She had to hire a restoration company, and she is out $12,000.00. She is trying to keep in business but that was a devastating loss. Every time it rains she has water in her place. She wants to

stay here; but she needs Council's help. She had pictures to show the Council. Mike Johnston appeared before Council and said he had looked at this situation at her request and stated his experience in these matters. He recalled that on Leo Street water used to back up, but we cleaned out a bicycle, and a water heater and so it is no longer is a problem. In Ms. Hutchins' case, the drain pipe under the railroad track is inadequate to carry the water; it needs to be a larger pipe. The opening of the pipe is partially closed also. That pipe catches all the water on Central Avenue from both directions.
City Manager Kraus stated that in 1997 the City put in storm drains and curb and gutter across West Central Avenue and connected it to the pipe that goes under the railroad; before then it just washed the rocks into the roadway. We contacted an engineer who will come on Wednesday to look at the storm drain to see what can be done. Mayor Black said an insurance claim was filed with the City insurance company in this regard, Jamie Guffey reported that the adjuster came out and looked at this situation and looked at state regulations and said we are a phase two city and are not storm compliant, and they denied the claim. Councilman Hough asked if we are supposed to get a permit in 2004 so we will be compliant then we think? Don Price said the City applied on March 15th and we are waiting for our permit; there is no definite time frame for that. Councilman Hough pointed out that if we had our permit now, maybe the insurance would have paid for this. Mr. Guffey stated that the adjuster said it rests on whether or not we actively contributed to the problem, if the system was in place and we were not working on it. For example, we were working on the line at the Suttenfields and a root ball dislodged which caused their problem, and so the insurance paid. This is different because we were not working on the system and so did not cause the damages. Mayor Black said Council would like to see the insurance denial letter. Mike Johnson said he was concerned also that in 1997 this was done with a plan by engineers who should have known that pipe would not carry the water. Councilman Hope asked if this is the insurance company's final answer? Mr. Guffey said that if any new evidence or new laws presented, they can revisit. Councilman Hope said he is not satisfied with the answer they gave and would like to have staff follow-up and protest it, especially due to the sewage in the water. Councilwoman Hubbard believed that the City would have had to have used an engineer, and that engineer should be responsible for that decision. City Attorney Michael stated it is likely that the statute of limitations has expired on any claim we may have against the engineer. Councilman Hope said curb and gutter was installed, and the pipe was not enlarged, so the engineer must have determined that the pipe was adequate. Mr. Kraus said staff will investigate that aspect. Councilwoman Harris remembered it came about because the rocks were washing off the railroad track hill, so they just put in a drain and tapped into that pipe.

PH#6 Presentation by Evelyn Irvin
Ms. Irvin, 909 Timberlane Drive. She handed Council a petition and a copy of the drainage laws. She stated that the City is aware of our problems, the water still stays, and it is a health hazard that the water stands and does not drain.

This needs to be corrected because when spring comes we will have the same problem. The City contributes at least 50% of the water from water runoff from the streets. We want the City to come and dig out the ditch, or let the prisoners come and dig it out. People here with me remember that the City has come out there and dug out that ditch before. I have taken this to many different agencies and they all said it is the city's job. We feel the city has not cooperated. The people below me should get a citation for not cleaning out the ditch on their property. She has spent $3,000 on her property and it still does not flow because the whole ditch has to be done. This is not asking too much. Also, she said she was told it would cost $35 to look at the city ordinance, but it should be public record and free. Mayor Black said that the ordinance can be looked at for free, and she can get copies of a few pages, but the entire City Code Book costs $35.00.

Robert Piercy, 911 Timberlane Drive. I have lived there longer than everyone out there. The City has cleaned that out before.

PR#7 Presentation by John Cato

John Cato, National Guard, provided a list of all the members of the National Guard that have been activated from our city. We want to make sure that their wives and families are taken care of while they are away. Things that need to be done such as grass cut, and getting food on the table. We would like to ask citizens in Mount Holly to adopt a family. Mayor Black said they would provide the list to City employees, and he knew we will have surplus computers in about two weeks that we can donate to the National Guard for the families to use to email their families. Councilwoman Harris asked how many computers that would be. Councilwoman Hubbard suggested we give the list to the ministerial association as well. Mr. Cato asked if there is a relief organization? He was told about CRO of Mount Holly.

Motion: Councilwoman Hubbard **MOVED** to declare three computers surplus when they become available and donate them to the National Guard, seconded by Councilwoman Harris.

Vote: unanimous. CARRIED.

PR#5 Presentation for SEQL

Laura McDowell, COG, was recognized, and presented information about Sustainable Environment for Quality of Life. Centralina Council of Government has been awarded a $275,000 grant from EPA to expand regional efforts to protect quality of life in our region. This program involves fifteen counties, all of which are facing problems with urban sprawl, air quality. She stated that the primary cause of air quality decline is an increase in vehicle miles. The ozone at ground level is toxic to humans even though it is good in the upper level atmosphere. Particulate matter also results in poor air quality. This is damaging our health in severe ways. We want cities to think about the land use decisions they make. If you are classified as a non-attainment area, there are costs associated with that. To allow an industry to come here, we have to lower

our numbers in another place. Transportation Conformity Funds can be withheld by EPA if we do not at a local level make changes. Councilman Hough asked if COG is aware of Mount Holly's vision plan adopted by June 3 election, including streetscapes, greenways and parks, annexation agreements, and parking plans. He asked what funding is available for us to make the improvements we all want. Ms. McDowell said there are park and recreation grants, one is due in February, also the City could apply for the Grandfield Grant. Mayor Black said that she has brought with her a resolution of support and wants the City to adopt it. Councilwoman Hubbard said one of her pet peeves is the fact that cars have to pass emission tests but trucks and buses do not. Ms. McDowell said that is changing, and it will be required in June of 2006; the industry is working on changes to diesel fuel. We are trying to get a grant to re-do school buses ahead of that requirement.

Motion: Councilwoman Hubbard **MOVED** to adopt Res. 10-13-03C to support the SEQL program, seconded by Councilman Hough.

Vote: Unanimous. CARRIED.

PR# 4 Presentation by Gaston Community Action

Mayor Black stated he had a citizen call last month asking for help from the City to winterize her house. I asked staff and they directed me to have her call Gaston Community Action, which has a federal grant and they will come and cover windows and wrap pipes free to citizens of Mount Holly and anywhere in the county. Mayor Black declared October 30th Weatherization Day, for aid of low income residents.

PR#2 Proclamation Honoring Webb Street School

City Attorney Kemp Michael who is on the school board stated that Webb Street School is our county's public school for students with profound mental and physical disabilities. They have students from pre-Kindergarten through 12th grade, and they have graduation with about a dozen graduating a year. The issues they deal with and overcome are amazing. This is the 50th anniversary of the school.

Mayor Black read a Proclamation, honoring the school, and declaring this year as Year of the Special Student. Mount Holly congratulates the school, students, teachers and staff on its 50th anniversary.

UNFINISHED BUSINESS

UFB#1 To Consider Mosquito Control Ordinance

David Kraus said that Ryan Baker met with the city attorney, and the proposed ordinance is in the packet. Mayor Black pointed out that the issue of pools with standing water are addressed in this proposal. Mr. Michael said there is currently a nuisance abatement ordinance in the city code where the city handles it and places a lien on the property. Stagnant water is included in the nuisance ordinance, but it does not give the property owner any direction for correcting the problem. This proposal is an enforcement policy so that the person designated by the city manager would have a process to follow; the focus is on education.

Also the tablets are an alternative to draining the water. They are inexpensive. If the property owner does not either drain or treat, and the enforcing personnel finds a significant problem, then enforcement would fall under the nuisance ordinance with the city fixing that problem and placing a lien on the property. It also addresses the fact that property next to a creek would most likely use the tablets. This does not mean that the city is going to go on private property, we have not had a policy of doing that. Council concurred.

Ms. Mayhew was recognized and she stated that one of those pools is next to me and they said it is a natural spring; something needs to be done. City Manager Kraus said we will follow up and have Mr. Baker look at that.

UFB#2 To Consider Close Out of Fire and Rescue Headquarters Station Contract

City Attorney Michael said they are close to a final settlement, but not there yet. No action.

UFB#3 To Consider Letter from Attorney James Stancil

City Manager Kraus said attorneys have been calling the county and not the city and so if they are not careful they are not getting the old taxes due on properties for which they are handling closings. Councilman Hough asked why does the tax lien follow the land instead of the person who owed it? Mr. Michael said it is a state law that it is a lien on the property so that it can be foreclosed on by the government agency, and the taxes can be collected that way. It is also a lien against the person that was supposed to pay. Councilman Hough wanted to know legally who is responsible. Mr. Michael said only the Council can forgive a tax bill, called a tax release; the tax collector has no discretion. He noted that the letter also raises the issue of a past employee giving wrong information. The letter is requesting the City give some relief to his client. Councilman Hope asked for his opinion. Mr. Michael said his office checks taxes all over and mostly we get a computer printout which can be put in the file. Verbal communication cannot be verified. However, the fact that an employee gives the wrong information does not mean the taxes are not still due. He said he has had to pay some taxes before that were missed. He did not know what amount of money is involved in the taxes that Mr. Stancil is talking about. Jamie Guffey said the City has had other situations, but the other attorneys have paid, such as Robert Whitt, and Nicole Nichols, that he could recall on the top of his head. City Manager Kraus said one option is to charge the tax but waive the interest. Councilwoman Harris was concerned that would not be fair to the ones that already paid. Mr. Kraus agreed that everyone has to be treated the same. Councilwoman Harris said she did not think it best to go back and refund tax money or interest already paid. Councilwoman Hubbard said she has a problem with it, because when the attorney checks on the taxes, at closing the seller pays and the buyer pays so they are paid, the people who actually owe the money. Now, these people are long gone, so in all of these cases that leaves it on the attorney. Councilman Hope said he pays his taxes and so do the people on a

fixed income. Mr. Hope stated that if he misses something in his occupation, he has to pay for it. But he expects staff to diligent to give the right information. Jamie Guffey said we have now taken steps to be sure we give the right information, and we now fax the responses. Mr. Michael said that usually after the folks sell, they leave town, and you have no way of finding them, and chances of collecting it from them are slim unless they still live here. Councilwoman Harris said that Mr. Stancil could find them as easy as we can. Jamie Guffey said our tax collector has turned in several of these in on their title insurance. Mayor Black asked if that can that be done in Mr. Stancil's case; Mr. Guffey didn't know. Councilwoman Hubbard asked what if it was foreclosed and a bank owned it and sold it. Mr. Michael said it would be the same. Councilman Hope asked if we are going to leave the interest or waive it? Councilwoman Harris said the other people already paid it with the interest. No action was taken. The Council asked Mr. Kraus to write a letter of response. Mayor Black asked for a report on the back taxes collected this way. Councilwoman Hubbard said the number of incidences, the amount due, and amount of interest would be of interest to her. Councilman Hough felt we should stop the interest accruing as of today. Mr. Michael was concerned about that idea because you would need to be more specific than that. Councilman Hope said he was not sure how to handle the interest part. Councilman Hough said if we did not charge interest on this one we would have to refund the interest paid by those other people, but we don't know enough information to do that yet. Council decided to leave it as is.

PUBLIC COMMENT

Mayor Black opened the floor for public comment.
None.

ROUND TABLE

Councilwoman Hubbard asked about the status of the water issue for Kristy's. City Manager Kraus said this is on hold because it is tied in to the Rhyne property annexation.

Councilwoman Hubbard clarified that what was found at _____ was iron bacteria, and it is naturally occurring.

Councilwoman Hubbard asked about the state naming the new bridge on Highway 27 over the Catawba River.

Councilman Helms said there is a property on the road to Dotson's Trailer Park that has lots of rubbish and old tires, and the neighbors are complaining. Mr. Kraus said he would turn this over to the code enforcement officer.

Councilman McLean asked if there is anymore burning allowed for ice storm debris. Mr. Kraus said the time has expired, but Council can extend it. Chief

Calder said only three people called in like they were supposed to, and most people are just burning without having the fire department out to check safety.

Councilman Hough turned in complaints from Cove Street and North Street, for nuisance abatement.

Mayor Black asked about the complaint from John Grindstaff last month about the property on Ferstl Avenue. City Manager Kraus said the item adopted tonight gives us a tool we needed to handle that.

Mayor Black asked Council about next month's work session which would normally be on November 4th, election night, asking them what date they want to do it. Council decided to cancel it.

Mayor Black reminded Council of the candidate forum tomorrow at 7:00 PM at the school.

Mayor Black asked for a report on the West Glendale Avenue improvements. Mr. Kraus said we are waiting for the utility companies to move the poles, etc. Mike Santmire said we hope to work on water and sewer next week.

ADJOURN

There being no further business, the meeting was adjourned, upon motion duly made by Councilman Hough, seconded by Councilwoman Harris and carried unanimously.

9:20 PM

Clerk

Mayor

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cpm