

**Regular Meeting
City Council
October 11, 1993**

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

The invocation was led by Rev. Wilson Rhoton.

Councilman Hope **MOVED** to approve the minutes of September 13, 1993, with the following amendment: page five, paragraph two--omit the second sentence; seconded by Councilman Small, with all in favor.

John McLaughlin, for W. K. Dickson, Engineers, presented a proposed contract for services with regard to sludge handling facilities at the wastewater treatment plant. The Council has previously chosen alternative #1 as its choice of improvement. Mayor Black noted that there is 1/2 million gallon capacity for sludge storage now, and that the City built ten dry sludge beds at \$50,000 each, which were virtually empty a couple years ago. He asked where this has all come from to fill them up; and pointed out that if an industry has filled them up, it should pay for this. Mr. McLaughlin said the flow has been steadily increasing over the years, and now we have come to a need for holding it in basins so that the City's permit is not violated. To the Mayor's inquiry, Mr. Nichols stated that one industry has been in violation and sent excess sludge, but it is only one contributing factor to the current situation. Mayor Black asked about the fees paid by industry, and Mr. Nichols said they are charged a rate per 1,000 gallons discharged, and if in excess or violation, they pay a surcharge. Mr. McLaughlin said the surcharges should cover the City's expense of handling extra discharges. Mayor Black asked if it is really necessary to build two 3/4 million tanks in addition to what we have; Mr. McLaughlin said the regulations have become stricter as to the holding time required before distribution, and these tanks will accomodate a future enlargement of the plant capacity. Councilman Small stated his belief that the consultant fees were too high and asked if some of it can be cut out or reduced and still have the job done properly. Mr. McLaughlin stated that the inspection could be reduced perhaps if there would be capable City staff available. He pointed out that this improvement will require protecting the existing plant while the additions are being made, and will involve moving sludge around from place to place during the work. Councilman Little asked about the time period; it has a 270 day construction period. The tanks will be concrete. Mayor Black asked if the City might be able to use the State bonds that are being proposed; he said we might if they pass the legislature. Mayor Black said these could have been included in the bond package just passed in the

referendum if we had known about it sooner. Mr. McLaughlin said the study was done at the City's request, and the presentation of the study to the Council was made last spring. Councilman Little said that \$78,000 for 270 days would be \$26 per hour, just for observation fees, and he felt that was too high. Mr. McLaughlin stated that is a not-to-exceed amount, and the City would only be billed for actual time served. Councilman Hope stated that with our tax dollars being squeezed as they are, he would like W. K. Dickson to look out for our best interest and give us only what we need to get the job done, and he requested a detailed fee schedule be submitted. Councilman Small suggested this be bid out. Councilman Jessen felt we would be able to get a fair contract with Dickson, but he was concerned that the City not do this twice, and if we need to expand the plant, we should do all of it at once. Mr. Jessen also inquired as to where the \$1 million is coming from to pay for this project. Mayor Black appointed Councilmen Hope and Small to a committee to bring a recommendation to Council for this matter.

City Manager Ponder stated that the new Police Department building renovation is on schedule. The Council set October 23rd for the ribbon cutting and Open House for the public.

Mayor Black announced a public hearing at 7:00 P. M. Thursday in Gastonia regarding the Gaston County watershed regulations. He encouraged the Council to be there to stress the importance of their adopting a WS-4 level for the property north of the City which lies in the County's jurisdiction. He also suggested that if the City had adopted a two mile ETJ we would be in control of that instead of the County.

Carlton Broome appeared before Council for himself and Elizabeth Curtis with regard to their petitions for voluntary annexation. He stated he is interested in having police protection and street paving, but that he does not wish to annex the whole development right now until he burns off the debris. Mayor Black asked Mr. Nichols if there will be a problem with the City providing utilities. Mr. Nichols said there will be a problem providing sewer service, as they could not be gravity served without them installing a pump, and an easement would be required to get to the City line as well. Mayor Black said the City's policy is that if sewer is available, they must hook on. Mr. Broome said he has not intended to hook these lots on as they have working septic tanks. Mr. Nichols said the City's sewer line is not available for gravity feed to two of the three lots. City Attorney Michael asked how the subdivision will be sewered when he does develop it; Mr. Nichols replied that those lots are at a higher elevation and can be gravity fed. Mr. Broome stated he is aware that these lots cannot be served and they waive their right to be served by the City unless they install pumps and a line to the City's line. Mr. Michael said he will have to investigate to find out if Mr. Broome is allowed to waive the requirement of City utility service. Mr. Michael asked how far it would be to extend the City line to the Curtis property. Mr. Nichols said it cannot be done because the

line would come out of the ground before it got there; City service by gravity on that property would mean a hookup to the City line on the other side of the railroad tracks. Councilman Small **MOVED** to adopt Resolution #10-11-93(a) fixing the date of public hearing for consideration of the voluntary annexation of the Elizabeth Curtis property for November 8, 1993, seconded by Councilwoman Harris, with all in favor. Councilman Hope **MOVED** to adopt Resolution #10-11-93(b) fixing the date of public hearing for consideration of the voluntary annexation of the Carlton & Cecelia Broome property for November 8, 1993, seconded by Councilwoman Nichols, with all in favor.

The committee of Councilmen Small and Little had met with the Catawba Heights Volunteer Fire Department and negotiated a renewal contract with them for five years and an amount of \$27,000 per year. The contract has been approved by the CHVFD Board of Directors. City Attorney Michael said the contract is the same agreement as before except for the monetary compensation. Councilman Little said they also added a small area which used to be part of Community Volunteer Fire Department. Councilman Jessen asked why the increase from \$15,000 to \$27,000. Councilman Small said this would provide the same benefits to them that the Mount Holly Volunteer Fire Department has. Councilman Small **MOVED** to approve the contract with the Catawba Heights Volunteer Fire Department as presented and to authorize its execution; seconded by Councilwoman Nichols, with all in favor.

Allen Craig requested that a public hearing be set to consider rezoning a seven acre tract on West Charlotte Avenue from B-3 to R-20. He said the heirs of Edna Craig want this property to remain residential. Councilman Hope **MOVED** that, based upon the recommendation of the Planning Commission, a public hearing be set for November 8, 1993, to consider the Craig Estate rezoning request; seconded by Councilman Jessen, with all in favor.

Mr. Gary Roberts stated that Mr. Jerry Pace, Gastonia Iron Works, has requested that a public hearing be set to consider his petition for rezoning a 1.14 acre tract on Legion Road from R-12 to L-1. This property is owned by the City, and he wishes to lease it and use it for a turn-around for his trucks and for a metal office building. City Attorney Michael stated that no agreement has been made as to his use of the property if he leases it. Councilman Jessen **MOVED** that, based upon the recommendation of the Planning Commission, a public hearing be set for November 8, 1993, to consider the Pace rezoning request; seconded by Councilman Small, with all in favor.

City Manager Phil Ponder presented Change Order #1 to Contract #1 with Trans-State Construction for the water and sewer improvements, which formally authorizes the changes determined by the Council at its August 2, 1993 meeting, and decreases the contract price by \$44,430.00. Councilman Hope **MOVED** to approve Change Order #1 to Contract #1 for the water and sewer improvements project; seconded by Councilman Little, with all in favor.

Mr. Ponder submitted Change Order #2 to Contract #2 with Trans-State Construction Company for the water and sewer improvements project, which changes the type of pipe to be used, and decreases the project by \$3,970.00. Mr. Nichols said he has reviewed the specs and finds the pipe suitable. Councilman Hope **MOVED** to approve Change Order #2 to Contract #2 for water and sewer improvements project; seconded by Councilman Jessen, with all in favor.

City Manager Ponder presented a resolution authorizing the State to release its share of State appropriated funds for Lead Regional Organizations to the Centralina Council of Governments, identified as Resolution #10-11-93(c). Councilman Jessen **MOVED** to adopt the said resolution, which was seconded by Councilman Hope, and carried with all in favor.

The League of Municipalities has requested support of the November 2nd Bond Referendum which would establish a local government revolving loan fund for water and sewer infrastructure improvements, universities, community colleges, and state parks, at low interest rates. Councilman Jessen **MOVED** to adopt Resolution #10-11-93(d) in support of the same; which motion was seconded by Councilman Little, with all in favor.

In addition, the League has requested support of a constitutional amendment to allow local governments to use economic development bond financing (a method of financing public capital improvements related to a commercial or industrial development by using increased property taxes that come from that new or expanded development). Councilman Jessen stated this would involve issuing bonds based on anticipated taxing of future development, and he was concerned that this kind of financing would have no guarantee for the City that the business would remain in business to pay the taxes anticipated, and could easily be abused. Mr. Ponder stated that in a practical sense larger cities would be more in a position to use this type of financing. He added that the requirement remains that the Local Government Commission approve all large loans, and they are conservative and would not approve a loan if it is not feasible. Councilman Jessen **MOVED** that no action be taken on this matter; seconded by Councilwoman Nichols and carried with all in favor.

The proposed smoking regulations sent by the League of Municipalities were considered next. The State will control smoking regulations if the City does not pass its own ordinance by October 15th. Councilman Jessen stated his belief that this will be regulated from above, but he does not agree that they should tell a businessman what to do in his own office. Councilman Small stated that the proposal goes too far in that it includes municipal vehicles as well, and so he **MOVED** that this matter be tabled until the next regular meeting on November 8; motion seconded by Councilman Jessen, with all in favor. Mayor Black thanked the Council for its past consideration by smoking outside.

Tax releases for 1993 in the sum of \$1,450.84 and penalties in the sum of \$7.36, totaling \$1,458.20, were approved upon **MOTON** by Councilman Jessen, seconded by Councilman Small, with all in favor.

The floor was opened to complaints or petitions not on the agenda. Nancy Dills was recognized. She said a policeman is needed on West Central near Charlie's Drug after school, especially on junior high ballgame days, because of kids getting out of control. The City Manager will check with the Police Chief about this, but the Council concurred that they can only deal with an immediate problem and not the underlying problem. Randy Dills said he has had kids throw rocks off the railroad tracks onto his car and van; he would like for their parents to be called by the police. Next, Mrs. Dills asked that the Council instruct the participants in the Christmas parade not to throw out candy because the big kids knock down the little ones for it, and lots of children run up to the vehicles; she fears someone will be run over. Mayor Black said he would give this request to the committee handling the parade.

Mayor Black said he had contacted the Post Office in Greensboro several times, and recently they said that office no longer handles Mount Holly and referred him to the Charlotte office. They had told him they will fix the holes at our Post Office and will pave the lot soon.

Mayor Black reported seeing the Mount Holly brochures in a rest stop of the interstate highway near the Tennessee state line.

City Manager Phil Ponder said the Board of Transportation would meet in Hickory soon, and the Mayor encouraged someone to be present. Councilwoman Nichols said they had put our South Main Street improvement down from number 4 to number 14, but she had sent them the accurate information about accidents on that road and it has been replaced at number 4.

City Attorney Michael asked the Council for specific instructions with regard to the Grady Stamey house at 127-B Alsace Avenue. Mr. Roberts said he has been in close contact with the man and his family for two years, and extensions have been granted over and over. The neighbors call frequently to complain. He does have family. Mr. Roberts stated there is a definite safety hazard in the condition of the house and his use of kerosene heaters. Mr. Roberts had tried to help him get into public housing, and tried to take him to Gastonia also, but he has refused the help. Mr. Michael stated the City has never condemned an occupied dwelling in the 20 years he has been its attorney, and it is very unpleasant because a court order must be obtained. Councilman Hope asked how long he has lived there; a considerable number of years was the reply. Councilwoman Harris asked his age; he is 84. She inquired about utilities; his electricity and water are off for continued and lengthy lack of payment. After deliberation, Councilman Jessen **MOVED** that the condemnation procedure be continued even if it requires going to court; seconded by Councilman Little, with all in favor.

City Attorney Michael reported that out of 22 sewer easements required, plus the added Freightliner segment, he lacks only one easement. This involves a 9.3 acre tract owned by Reg Robinson Real Estate, Inc. He stated that negotiations are ongoing and Mr. Robinson has been cooperative. However, he stated his concern that the City is under contract and if the contractor gets to that place in construction, he needs authority to file a condemnation proceeding so that the contract will not be held up by the City. He stressed this would only be a last resort and only done if it becomes necessary. The City's right of way would be effective the date of filing a condemnation proceeding, if filed. Councilman Small asked if he will be able to tap on; Mr. Michael answered affirmatively, but not by gravity because of the elevation. Councilman Little asked if the land perks; Mr. Robinson has stated to Mr. Michael that most will not. The Council agreed a condemnation should not be filed unless there is no alternative. Mr. Michael said he has only had to file one condemnation in all these years, and he assured the Council that even if he has to file, he will continue negotiation and hopefully stay out of court. Councilman Hope asked about the difference in the two positions as to compensation, but Mr. Michael stated he would prefer to discuss that in executive session, and the Council concurred.

Mayor Black opened the floor to any candidates to introduce themselves who did not do so the previous month; there were none.

City Attorney Michael informed the Council that the contract negotiations with Jadco-Hughes Steering Committee are at a point for submission to Council, and he suggested a special meeting may be needed so that there will be time to discuss the matter fully.

The Council took a five minute recess.

The Council went into executive session for property acquisition, personnel, and attorney-client purposes upon **MOTION** by Councilwoman Nichols, seconded by Councilwoman Harris, with all in favor. The Council returned to open session upon **MOTION** by Councilman Small, seconded by Councilwoman Nichols, with all in favor.

Councilman Little **MOVED** to authorize the City Attorney to file condemnation proceeding for the 9 acre tract owned by Reg Robinson Real Estate, Inc. at the end of Morris Street if it becomes necessary to protect the City's contractual obligations; seconded by Councilman Jessen, with all in favor.

The meeting was adjourned upon motion by Councilwoman Harris, seconded by Councilman Hope, with all in favor, at 11:30 P.M.

Phillip B. Ponder
City Clerk

Charles B. Black
Mayor
