City Council
Regular Meeting
September 8, 1997

The regular meeting of the City Council of Mount Holly was called to order by Mayor Frank McLean at 7:30 P.M. The following were present:

Mayor Frank McLean
Mayor Pro-Tem Michael Helms
Councilwoman Phyllis Harris
Councilman Andy Stewart
Councilman Jim Hope
Councilman R. L. Duke, Jr.
Councilman David Hostetler

City Manager Phillip G. Ponder, Jr.
Public Works Director Eddie Nichols
Administrator Sherri Borgsdorf
Zoning Administrator Danny Jackson
City Attorney Kemp Michael
Police Department officer

The invocation was led by Rev. Roger Grassfield.

The meeting was recessed and a public hearing called to order for consideration of a $2.575 million bond package for construction of sidewalk and drainage improvements, upon MOTION by Councilwoman Harris, seconded by Councilman Stewart, with all in favor. City Manager Ponder stated the Council would now hear from citizens as to whether or not the citizens are in favor of a bond referendum being held on the sidewalk bond issue. There were no comments. Mr. Ponder said a second reading of the bond order now would be had and a motion entertained. Following that a resolution would be read ordering and setting the bond referendum, upon which a motion and vote would be necessary. He then proceeded with the second reading of the bond order. (copy attached) The public hearing was closed and the regular meeting resumed upon MOTION by Councilman Helms, seconded by Councilman Stewart, with all in favor. Councilman Stewart MOVED to adopt the bond order on second reading as read, seconded by Councilman Helms, with all in favor. Next, Mr. Ponder read a resolution setting the bond referendum. (copy attached) Councilman Stewart MOVED to adopt Resolution #9-8-97(a) seconded by Councilman Duke, with all in favor.

Two annexation requests were considered, one by Woodrow Moore and one by Jeremiah Robinson. Mr. Ponder said Mr. Moore is making this request in conjunction with development of a subdivision. Mr. Moore would have to follow the subdivision ordinance, and the city policy requires the developers to install improvements. As to Mr. Robinson's request, Mr. Ponder found it would cost approx. $127,600, and at current tax revenues would take 122 years for payback. Mr. Robinson was recognized, and stated he did not understand the figures Mr. Ponder presented. He asked what he would have to pay. Mr. Ponder said if the City annexed this area, it would have to pay for these improvements. Mr. Robinson said they are planning to put in more houses and would generate more revenue. Mr. Moore was recognized next. He said he did not have a problem with the normal procedure for his new subdivision and the past policy about installation of utilities by the developer. Councilman Stewart asked if Mr. Robinson had been informed ahead of tonight's meeting about the amount of funding needed and the options available for those residents. Mr. Ponder said he would be sure either he or Mr. Jackson met with Mr. Robinson to review with him the options available to him for that location. Mr. Moore's request for voluntary annexation subject to drafting of an agreement for development of the subdivision was approved upon MOTION by Councilwoman Harris. He plans to have 47 lots. Motion was seconded by Councilman Helms, with all in favor.

City Manager Ponder talked with Lucy Penegar, Chair of the Gaston Historic Commission. Hugh White, an architect in the early 1900s, designed many of the older buildings in the county. She said the addition to the City Hall building was done by him, but not the original section. She asked that the City have the deed researched on this building for them. He has not been able to speak with her about the local registration, but he does not believe that will be a problem. Councilman Hostetler MOVED to authorize the city attorney to perform deed research on City Hall for the Historic Commission, seconded by Councilman Stewart, with all in favor.

At the request of Councilman Helms, staff has researched the City policy of having commercial utility accounts pay a 6,000 gallon per month minimum, whereas with residential users it is a 3,000 minimum. The difference would be approximately $10,500. Councilwoman Harris wanted to know when this minimum was established and what the intention was. City Manager provided copies of minutes showing it was adopted on Jan. 22, 1980. In May 1983, Councilman Small moved to reduce the 6,000 minimum down to the residential amount, but his motion was defeated. About 3 or 4 years ago this matter was raised but no action was taken. Councilman Helms clarified that the 3,000 would be a minimum and they would be paying for any used over that amount. He does not feel the city is entitled to this revenue from a higher minimum, as many of these businesses are small and have only water usage of one restroom. Councilman Stewart said that the $10,000 estimated as lost revenue if this change is adopted should not have a drastic effect on the water/sewer fund considering the budget level for it, and he did not feel it is fair to charge a different amount. Councilman Hostetler said he agreed and felt it was unfair to overcharge commercial users in this way. Councilman Helms MOVED to reduce the minimum from 6,000 to 3,000 gallons on commercial accounts effective at the next billing cycle, seconded by Duke, with all in favor.

Diane Pritchett, Priority One Management, said a new grant for this year was awarded in the sum of $120,000 for the CIAP from HUD. $497,780 has been received in the past several years, and has been used to make a lot of improvements at Holly Hills Apartments. This grant will pay for erosion control and landscaping. Also, vanities in the bathrooms, replacing all medicine cabinets, painting rear doors, and purchasing 15 refrigerators are covered by the grant. Councilman Helms asked what the erosion control would involve. She said the architect will determine that. Councilman Hope MOVED to adopt Resolution #9-8-97(b), seconded by Councilwoman Harris. Councilman Hostetler noted for the record the award received by Priority One for good management. Motion carried by six ayes and zero nays. Mayor McLean had Teresa Sides join Ms. Pritchett and recognized them before the audience the excellent job they have done and the much better condition of the apartments since they have been operating them.

First Colony Group has requested that the City accept infrastructure on two of the maps in Runnymeade SD, and that the warranty period of one year begin. Public Works Director Nichols said that there are some minor items remaining on the punch list. He suggested the Council accept these sections subject to completion of the punch list, and to begin the warranty period when staff designates the punch list is substantially complete; some items would normally be done during the one year period. Mr. Ayers was present to represent the developer. Councilman Stewart asked when the date begins for the warranty. Mr. Michael said normally the Council's resolution accepting a subdivision infrastructure includes a date for the warranty period. In this case, Mr. Nichols has asked that the warranty period begin when staff determines the items are complete on Phase I, Maps Two and Three. He read the list of remaining items. He said some of these are handled during the one year warranty period. Mr. Michael said a warranty agreement would be drafted and the remaining items would be listed on it. The developer would be able to release his first bond and replace it with a bond covering the remaining items. Mr. Nichols said the major infrastructure is completed. Councilman Hostetler MOVED to accept the infrastructure for ownership and maintenance in Maps Two and Three, Phase I, Runnymeade Subdivision, subject to staff approval of bond for remaining items and warranty agreement execution; seconded by Councilman Stewart, with all in favor.

City Manager Ponder said that Ashlyn Place Subdivision is in our ETJ and so the developer has been following our subdivision ordinance, but the City will not have to accept the improvements for maintenance since it is outside. Councilman Hostetler had a phone call that a culvert does not have a cover on it. Mr. Nichols said it was in order when he inspected but will check on it. Councilman Hope MOVED that the one year warranty period begin and new bond accepted, seconded by Councilwoman Harris, with all in favor.

The Deerfield Subdivision final plat for Section II, Phase II was considered next. Danny Jackson said the Planning Commission recommends approval subject to Mr. Yatko providing the normal financial guarantees. This section is about 30 lots. Helms MOVED to approve the final plat and direct staff to take action necessary to obtain necessary financial guarantees. Councilwoman Harris seconded, and motion carried by unanimous vote.

City Manager Ponder said usually the developer puts up signs, but Spring Street is a city street already. Staff has determined that one stop sign, one street sign, and two No Parking Anytime signs should be installed by the City. Councilman Duke said we have a Spring Street in Woodland Park, so this should be renamed. Mr. Ponder said that there are no lots that face it and the addresses are either Tuckaseege or Highland Street, so will not be a conflict. Councilman Stewart MOVED to have the signs installed and the official traffic map of the City be amended to show the additions as indicated by the City Manager, seconded by Councilwoman Harris, approved by unanimous vote.

City Manager Ponder said the City has accumulated fitness equipment at the gym facility on Hawthorne Street. Now the City has nearly 200 regular participants using it. We used a summer intern to handle the hours of operation. The funding for the summer intern has been exhausted, and the Recreation Commission asked that that a fee structure be set and a temp or part-time person be hired to maintain the hours of operation. Mr. Ponder said the council could reduce the hours if they do not wish to adopt the fee. Rec. Dir. Zip Stowe said the proposed fees would be $30 a quarter, $40 for couples, and $50 family, with exemption for senior citizens, teachers, and city employees. The School system pays for the utilities in that building. Councilwoman Harris pointed out that a temporary employee costs $6,000. Councilman Stewart said if citizens have to pay that much they will go somewhere else. He would rather we find a way to fund or subsidize it so the fee is not so much. Councilwoman Harris said the Recreation Commission was not sure how the Council would feel about funding it. She also said a petition was received about keeping this matter, and felt in her opinion it was not appreciated, since the Council has done a lot for recreation. She feels this facility has a good participation, and should be funded by the City, and that the City should absorb the cost with no fee. Councilman Hope did not feel a fee structure would be appropriate, and that the facility should be monitored so used by City citizens and not outside. Councilwoman Harris asked if the Council wants to keep the hours of operation it has or increased, and approve a temp employee. Hostetler agrees no fee schedule should be used, and was surprised there were already that many users. Councilman Hope wants it monitored as to time of high use so can get idea of high traffic and a recommendation be brought back to Council. Councilman Stewart said minimum wage was recently increased to $5.15 hour which would affect the estimated cost. Mr. Stowe said we have a temp person in the afternoon, and would need another for morning. Mayor said be sure always supervised, and noted there is a phone there. Bobby Black said people of all ages are using, and the equipment is superior to any in the area. Mr. Huffstetler said the Recreation Commission appreciates the Council's response to their requests. He mentioned the employee picnic at Tuckaseege Park which was improved by money approved by Council. We do have outsiders using it and will be glad to look into possibly charging them and will bring a recommendation. Mr. Stowe said the funding for the temp person's time ended last Friday. Mr. Ponder said it was his idea to set a fee schedule, but none will be set right now; also, he will keep temporary person or hire one to keep it going and will return with the information requested. Councilwoman Harris said outside users should probably pay a fee of some kind. Councilman Hostetler asked that a paper be put out at the gym for user input as well.

Mayor McLean recognized the Council candidates in the audience: Bobby Black, Charlotte Gaston, Brian Huff, as well as Mr. Helms and Mr. Hostetler as incumbents.

The Council took a five minute recess.

Danny Jackson said the Planning Commission recommended a public hearing be set for a rezoning request. Councilman Hope MOVED to set a public hearing for October 13, 1997 to consider the rezoning request by Woodrow Moore for a 25-acre tract on old NC 27 from Rr-20 to R-12, seconded by Councilman Duke, with all in favor.

Danny Jackson said the Planning Commission recommends reappointment of Chuck Carpenter, Jerry Miller, and Hazel Michael to the Planning Commission, all of whom have terms expiring in September:

Councilwoman Harris MOVED to reappoint Chuck Carpenter for a three year term beginning in September, seconded by Councilman Hope, with all in favor.

Councilwoman Harris MOVED to reappoint Jerry Miller, seconded by Councilman Hope, with all in favor.

Councilwoman Harris MOVED to reappoint Hazel Michael, seconded by Councilman Hope, with all in favor.

Councilwoman Harris MOVED to recommend to the County Commissioners the reappointment of Lynn Dunn as outside alternate, Helms seconded, with all in favor.

Councilman Duke noted two positions remain open, and there are no recommendations from the Planning Commission. Councilman Duke nominated William Gary for the regular inside member for the remainder of the term of Sandra Kirkland (to Sept. '98). Councilman Stewart nominated Max Rhyne, stating that he has served well as alternate, and feels he should be moved up and William Gary should be supported in the alternate position. Councilwoman Harris MOVED to close nominations for Sandra Kirkland's position, seconded by Councilman Stewart, with all in favor. Mayor McLean called for a vote for William Gary, and received one vote. Max Rhyne received five votes. Councilman Stewart MOVED to appoint Max Rhyne to Sandra Kirkland's remaining term as regular member, seconded by Councilwoman Harris, with five ayes and one nay (Duke) --expires Sept. '98. Councilman Duke nominated William Gary as alternate inside member. Councilman Hope said he felt the Council should wait until the Planning Commission gives a recommendation. Zoning Administrator Danny Jackson said they had no one in mind and so they sent the matter to Council. Councilman Duke MOVED to close nominations, seconded by Councilman Hostetler, and carried with all in favor. Councilman Duke MOVED to appoint William Gary to the alternate inside position vacated by Max Rhyne, seconded by Councilman Hostetler, with all in favor (expires Aug '99). Mr. Lindsay's alternate inside seat is still vacant. Councilman Hostetler MOVED to table action on Lindsay's position; seconded by Harris, all in favor.

Budget amendments were presented by City Manager Ponder in the agenda, and he added another one that evening. He said that this new one is a result of the recently adopted clean water act. The State will be closely monitoring any type of spill, the City will have to report more, and may be fined. This amendment is for three problem areas which need immediate repair, the Deerfield trunk line which is about to fall in Taylors Creek, 300 Walnut Avenue where we have had a dispute with the property owner over the location of right of way so will need to replace that line, and a sunken place over the sewer line on Pearl Beatty Rd. which will be contracted out due to the depth of the line. Councilman Hope MOVED upon staff recommendation to approve the budget amendment for $24,000 as presented for the Sewer Fund (copy attached), seconded by Councilman Helms, with all in favor. Councilman Helms MOVED to approve budget amendments to the General Fund and the police department fund as presented (copies attached), seconded by Councilwoman Harris, with all in favor.

City Manager Ponder requested a closed session with Council on two items.

Mayor McLean opened the floor to complaints or petitions not on the agenda. Larry Keply, 303 Beatty Road, and wife, Bonita, were first to speak. The wife purchased the house in 1986; it was in the County then, but since has been annexed. Since they have lived there a nursery opened on one side and on the other side apartments were built. A dumpster is located at the apartments, and the dumpster is located close to their garage apartment steps. Zoning Administrator Jackson said it is at a location which was allowed by the County and is grandfathered. They want the dumpster moved to the edge of the road instead, on Jones Street. Mayor McLean said he could understand their problem, but the dumpster has to be put on a concrete pad. Councilman Hostetler asked for clarification of what the problem is for the City to address. Mr. Jackson said the dumpster is non-conforming; if it is moved, it would have to comply with our code which requires 25 feet from the property line. Councilman Hostetler said they may need a variance. Mayor McLean asked the City Manager to look into this and see what can be done to help them.

Mr. Kepley said they have another issue, involving the nursery, in that he has asked them to put up a privacy fence, but they will not. So, he is putting up his own fence, and the nursery equipment is over the property line. Mayor McLean said that is a matter involving a private property line encroachment and the City cannot get involved in that matter.

Councilman Stewart MOVED to go into closed session for attorney client and personnel reasons, seconded by Councilman Hope, with all in favor.

CLOSED SESSION NOTES
The City Attorney discussed the matter of the Goodwater lawsuit against Mt. Holly, and gave a status report. He requested direction from Council as to next step.

Next item was a personnel matter discussed with Council by City Manager Ponder about a police department arrest error matter.

Councilman Stewart MOVED to go out of closed session and return to regular session, seconded by Councilman Helms, with all in favor.

Public Works Director Nichols presented a proposed engineering contract with W. K. Dickson for three projects, one being the two inch line being run to the Habitat for Humanity. He had decided to combine this project with another project in the budget for this year to make the engineering expense worthwhile. So he had added the six inch water line on West Charlotte Avenue from Main to First, and the Broome Street eighteen-inch relief sewer line (1900 lineal feet). Mr. Nichols said the Broome Street project is fed by Gateway area and Catawba Heights. He had proposals from W. K. Dickson and from DS Atlantic. DS Atlantic's proposal is $49,000, the W.K. Dickson proposal is $40,000 after negotiating the running of the three projects together. He recommended award to Dickson Engineers. He said that Laurene C. Rhyne used to work for O'Brien & Gere and is now with DS Atlantic, and he had worked with her in the past, and they might lower the price some if contacted to combine the projects. Councilman Hostetler asked if this work needs to be done now or could we table action until next month. Mr. Ponder said the work needed to be done now. Councilman Hope said people are quick to pull the trigger when someone stumps their toe, and Dickson Engineers had done good work for a lot of years, and they are familiar with our system. He said he believed problems result from changing engineers. Councilman Stewart felt we may need to establish a relationship with another engineering firm so that we are not in a position of one safe choice. Councilman Hostetler said we may need to get references on new companies, but he would not want to take a new firm without getting references. Councilman Hope MOVED to award the contract to W. K. Dickson for $40,000 for engineering on three projects as outlined by Mr. Nichols, seconded by Councilman Hostetler, with all in favor.

City Manager Ponder said Mr. Dick Beatty had requested a tap for a new building Mr. Beatty has built on his property on Rankin Avenue, at the point where they are ready to occupy. When he found out the new price, he wanted to tie on to his existing line. Our code requires separate buildings be on separate taps, but it can be exempted by Council action. Councilman Stewart inquired as to why we would allow exemption. Ponder said the code has an allowance for that written into it. Mr. Ponder said that evidently Mr. Beatty has contacted councilmembers and gotten approval. Councilman Helms said he agreed to exempt it because the buildings are on one deeded property and have one owner and he pays the whole bill for the whole complex. Councilman Stewart asked if it was because the cost would be more than the meter fee. Stewart felt the procedure in this case was lax and inappropriate. Councilman Hostetler felt it was disrespectful not to contact all the councilmembers to take a straw vote and was upset that he was not contacted. Councilwoman Harris asked the city attorney for opinion. Mr. Michael said the ultimate decision has to be made by the council tonight, although this happens on every board he has ever dealt with when situations like this arise. The staff went out on a limb based on a straw vote in expectation of a positive vote tonight. Councilman Stewart agreed the problem was that he was not contacted and felt this was controversial since the Cherry Street man had to put in the separate meters. Councilman Helms stated that was different because each house was on a separate deed. Councilman Hostetler MOVED to change the policy so that all councilmembers are contacted when a straw vote is taken. Mr. Ponder said because the meetings are once a month, and has been forever, and Mr. Beatty was told to get on the agenda, but did not, and then called the City Manager from the hospital, he felt a need to handle the matter. Motion seconded by Councilman Duke. Motion carried with a vote of three ayes and three nays (Harris, Helms, and Hope), with the Mayor voting aye. Councilman Duke MOVED to deny Mr.

Beatty's request, seconded by Councilman Hostetler, which failed with a vote of two ayes, and four nays (Helms, Harris, Stewart and Hope).

Councilman Duke had a phone call from Mrs. Conrad that the speed limit is not being enforced on Nantz Avenue. Phil said he would provide them with a report of the number of times it is patrolled.

Councilman Helms asked Mr. Nichols if the City is going to pave around that pine tree with the possibility of it cracking the asphalt later. Mr. Nichols said pine trees don't usually produce that problem. Councilman Helms feels the tree needs to come out since it is on the edge of the road, on Henry Street/Second Street.

Councilman Helms said he had a phone call that the paving is up to the curb and water draining over it, so wants an asphalt berm, on E. Catawba.

Councilman Stewart had phone calls that yard waste was not being picked up; it took three weeks to get his, too. Councilman Duke said Walnut Avenue residents had not been getting their yard waste picked up either.

Councilman Stewart asked if the Council needs to discuss the water/sewer fund; Ponder said after the auditor does his report in November.

Mayor said Carothers Funeral Home has a book of condolences for Lady Diana, Princess of Wales, who recently had been killed in a car accident in Paris, which anyone who wants may sign, and he asked that the City write a letter to go with it; the Council concurred, and the City Manager will write the letter and give councilmembers an opportunity to sign it.

City Manager Ponder said he got a letter from Mr. Tillman, stating that 7,867 people is our official population, a reduction. He will file an appeal, as it affects our share of state sales tax and Powell Bill funds, and it seems impossible that we would have a reduction with so many new apartments and subdivisions.

Councilman Duke moved to adjourn, Councilman Hostetler seconded, with all in favor at 11:15 P.M.

Phillip L. Ponder ______ Frank E. McLean ______

City Clerk Mayor

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