

Regular Meeting
City Council
August 8, 1994

The regular meeting was called to order by Mayor Pro Tem Bob Jessen at 7:30 P. M. Those present were Councilwoman Phyllis Harris, Councilmen Archie Small, Michael Helms, R. L. Duke, and Jim Hope, as well as City Manager Phil Ponder, Zoning Administrator Gary Roberts, Public Works Director Eddie Nichols, and a Police Department representative. Mayor Black was absent due to an illness. City Attorney Michael arrived later.

The invocation was led by Rev. John Bowden.

Councilman Small **MOVED** to approve the minutes of July 11, 1994, with the following clarification by Mayor Pro Tem Jessen as to his remarks on the first page, fourth paragraph: "I asked the questions for information and noted that there are areas in our city that duplexes could be allowed without objection, not intending my comments to pertain to a particular area before the Council for consideration."; motion seconded by Councilwoman Harris with all in favor.

The regular meeting was recessed and a public hearing called to order by Mayor Pro Tem Jessen, for consideration of rezoning a four acre tract on Pearl Beatty Road. There were no comments. Councilman Hope **MOVED** to continue the public hearing until the next regular meeting so that the proper documents can be provided by the applicant; motion seconded by Councilman Duke, with all in favor.

A second public hearing was called for consideration of corrective rezoning of 11 lots on North Main Street and East Charlotte Avenue to R-10SF or R-8SF. The Planning Commission has recommended rezoning to R-10. Zoning Administrator Roberts identified the property on the map. There were two men and one woman who spoke in favor of R-10. There were no further comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** to approve the rezoning to R-10SF per the recommendation of the Planning Commission; seconded by Councilwoman Harris, with all in favor.

The next public hearing was called for consideration of corrective rezoning of the West Nims/Cavin Avenue target area from R-8MF to R-8SF. The Planning Commission has recommended approval. There are two small apartment complexes there which would be grandfathered. Carolyn Mundy, 109 Cavin Avenue, voiced her support of the rezoning. Carolyn Brackett, Pine Street, was in favor of it. Mr. Roberts answered a man's questions about non-conforming uses. The public hearing was adjourned and the regular meeting resumed. Councilman Small **MOVED** to approve the rezoning to R-8SF per the Planning Commission's recommendation; seconded by Councilman Duke, with all in favor.

The fourth public hearing was called to order to consider rezoning the Pinewood Drive target area to R-8 MH. The Planning Commission recommended retaining the R-8MF zone on this area. Mr. Roberts stated that they feel it would be better to deal with mobile home subdivisions in the rewrite of the zoning ordinance. Kenneth Block, 426 Lanier, was in favor of the zone remaining R-8MF. Linda Kerrigan, 117 Pinewood, said they do not want it zoned R-8MH, because they own their own property, so it is a mobile home subdivision, and is not a mobile home park. She asked that they be allowed to give input on the regulations made when the zoning ordinance is rewritten. Mayor Pro Tem Jessen assured her that process will take over a year and there will be public meetings. Bobby Brown, 432 Lanier, said he would want to be able to rebuild his house if it burned down. Rex Hicks, 106 Pinewood Drive, said he knew that their area used to be called a mobile home subdivision, and then it was changed so a single wide mobile home cannot be replaced if it burns down, and no if they change it again to a park it will go back to allowing them; he felt they are going in circles. Linda Kerrigan was concerned about what might happen to them in the meantime while the zoning ordinance is being rewritten, and wanted the Council to promise they could replace their homes if they had a disaster. Mayor Pro Tem Jessen stated the Council does not have that authority, but he told her the Board of Adjustments would hear a petition for a variance. There were no further comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** that the rezoning request for the Pinewood Drive target area be denied; seconded by Councilman Duke, with all in favor.

The fifth public hearing was called to order for consideration of corrective rezoning of 14 lots on Lanier to R-8SF. Jim Grant, Lanier Street, said he had a large acreage tract which was zoned agricultural and that he deeded a one-half acre lot to his daughter and asked for it to be changed to R-8, and that he did not mean for the whole tract to be rezoned, but now he has found out it was; he wants his acreage put back to what it was before. Mr. Roberts said the old documents from 1981 he has found stated the whole thing was R-12 and the petition cited it was to all be changed to R-8; he did not find any record of it being an agricultural zone. John Dunn, 500 Lanier Avenue, supported the rezoning to R-8SF, but he was also in favor of letting Mr. Grant have his acreage for the agricultural use he has now. Mr. Grant said he has about 10 acres and has cattle on it. Councilman Hope **MOVED** to continue the public hearing until the next regular meeting so that more information can be obtained; seconded by Councilwoman Harris, with all in favor.

The sixth public hearing was called to consider the rezoning request by Morehead Properties and First Colony Group of 125 acres off North Main Street to R-8SF. Mr. Jim Coates said the property is now zoned a mixture of R-8MF, R-10, and R-12, and that a portion of the property is inside the City limits but the majority is outside. Mr. Jim Grant asked if there will be any easement from Lanier Street into the property; there was not. C. K.

Williams, Dogwood Avenue, who objected to the lots on North Main Street being R-8, stating they would be too small and devalue his property. David Hostetler, 123 E. Glendale, asked if the owner can put double-wides on the property if the zone stays as it is; they can on a portion of it. Mr. Hostetler said he does not want that, but he wants it to be R-10. Bob Sigmon, 300 Walnut, said he would like it to be R-20. Bill Gallman, 323 Dogwood, said he urges them to develop an upscale development and that beautiful property should be reserved for that. Millie Miller, 411 Timberlane, supported zoning it R-10 or higher, as did Betty Miller, 406 Timberlane. Bob Hoffman and Joe Helms, both of Walnut Avenue, were in favor of R-10 or R-12. Rick Eldridge, 410 Timberlane, said they do not want it to be down zoned, and noted that the R-8 zone in the property only makes up about 20% of the land there. Willy Rhyne, 208 Walnut, did not want it to all be R-8. Betty Hawkins, 422 Timberlane, was in favor of R-10 or R-12, as was Bill Paige, 315 Dogwood. A man at 218 Dogwood Drive asked if traffic impact studies were done and also how many houses could be allowed if the zones are left as they are. Mr. Roberts said there was a traffic study done two or three years ago, and he could not state how many houses would be allowed and noted that the R-8MF zone would allow multi-family dwellings. David Hostetler presented a petition from the citizens asking that it be zoned R-10. Councilman Helms said he went out to several developments with Mr. Coates and found them to be very nice, but he is in favor of R-10. Mayor Pro-Tem Jessen said he also went with Mr. Coates and was impressed with Northwoods and Long Creek, with the underground utilities, architectural controls, and deed restrictions, but he still prefers R-10. Betty Miller said her daughter lives in Northwoods. He daughter said she has a nice neighborhood and the restrictions have good size houses even though the lots are small, and she feels they should concentrate on the size and construction of the houses rather than the lot size. Mr. Coates said Northwoods allows 1200 square foot houses but most are 1600-2200. They plan to build \$90,000 - \$110,000 houses on this property. Carolyn Munday asked why they want R-8. Mr. Coates said some of the topography along the creek is steep and the R-10 requires a setback further than the R-8 which would mean the houses there would be built on the incline. He noted that most of the lots on the site plan are 9,000 to 10,000 square feet anyway. Bill Gallman asked if market research has been done; he feels they should be building 1800 to 2300 square foot houses (instead of 1200 to 1400 square feet). Mayor Pro Tem Jessen said he has found that 1800 square foot houses sell well here as it is an easy commute to Charlotte. David Hostetler stated that the Deertrack Subdivision has been successful in selling \$90-to \$150,000 houses and it is in a less desirable location; he felt the community can afford better housing and are in the market for it; he was in favor of an upscale larger house on a larger lot. Pat Hubbard, Main Street, said she was not in favor of R-8 because they could put double-wides on it, and even if they put restrictions on it, because that is what happened in Cottonwood Acres. Councilman Helms said he has talked with two real estate companies in our area and both said they could sell \$150,000

houses easily; that one of them reported getting two calls in the last week for that size house. Mayor Pro Tem Jessen stated that the Mayor has sent a message that he is in favor of the proposed project. Councilman Small asked if the developer could go with an R-10 zone. Mr. Coates stated that this site plan is based on a commercial loan from a lending institution on this property predicated on the sale of a certain number of houses; that the price range is based on the market study done by Graham & Associates in Charlotte, and is the basis for the development loan. If any portion of the plan fails, the project fails, and he does not have the authority to change the plan. Lynn Dunn, 500 Lanier, said the Council should rezone it to R-10 while they can and let it sit until another developer who can handle it comes. Dick Stever, the realtor handling this project, said he spent nine months finding a developer willing to come here, and Mulvaney was the only one willing to go with a project here. Bill Gallman said he knows they have good intentions, but it is only a business venture to them, whereas the citizens here have to live with it. David Hostetler said that the many people sitting in the audience are a living market study and are here to say they want bigger size lots and houses. An unnamed man said the highest average price homes in Gaston County are in Belmont and Mount Holly and he feels the market study they did is inaccurate. Dot Holland, North Main, said she knows a few people who would like to buy individual lots to build nice houses if they would sell them. There were no further comments. The public hearing was adjourned and the regular meeting resumed. The Planning Commission recommended approval. Councilman Small **MOVED** to deny the request for rezoning by Morehead Properties, seconded by Councilman Hope, with all in favor.

The Council took a five minute recess.

The next item on the agenda was consideration of adoption of the Land Development Plan. Bill Duston with COG reviewed the matter as follows: The proposed Plan has been prepared and reviewed by the Committee, the Planning Commission, and the Council. The options are: table the matter for further study, reject the proposal, or adopt the proposal. Public hearings may be held but are not required. The Plan is not an ordinance, but should be used as a guide for future land use decisions. After discussion, Mayor Pro Tem Jessen **MOVED** to adopt the Land Development Plan as presented, seconded by Councilman Hope, with all in favor.

The matter of revising the subdivision regulations as to requirements for recreation area was tabled indefinitely for consideration when the zoning ordinance is rewritten, upon **MOTION** by Mayor Pro Tem Jessen, seconded by Councilman Hope, with all in favor.

Public Works Director Eddie Nichols stated that the City's contract for land application of sludge expired in April of 1994. He solicited five proposals, and recommended acceptance of the offer by Bio-Nomics. He has checked out their references and

company record and found them favorable. City Manager Ponder noted the price to be higher than our last contract but lower than the other four received. Mayor Pro Tem Jessen **MOVED** to accept the staff's recommendation and authorize execution of the contract with Bio-Nomics at \$.025 per gallon, seconded by Councilwoman Harris. City Attorney Michael stated he advises that one sentence be revised before execution. Mayor Pro Tem Jessen amended his motion to make it contingent upon the City Attorney's approval as to the contract, which amendment was accepted by Councilwoman Harris. Motion carried with all in favor.

Public Works Director Nichols had received and tabulated bids for chemicals for the water and wastewater treatment plants. He recommended using the low bidder except on the phosphate, and he stated the corrosion inhibitor the City has used for the last 18 years has been found reliable in the extensive testing which has been done the last two years, in which the City had no samples exceeding the State action-required level. He did not feel a 10¢ difference justifies changing to an unknown product. Councilman Hope **MOVED** to accept the recommendation of staff and award the chemical bids as follows:

Phosphate--Eshelman Carolinas, \$87.06/100 lbs.

Chlorine---Jones Chemical Co., \$449/ton

Alum-----Peridot Chemicals, \$157.67/ton

Caustic----Prillaman Chem. Corp., \$335/ton

HFS-----LCI Limited, \$158/ton

Motion seconded by Councilman Helms, with all in favor.

Councilman Hope **MOVED** to adopt Resolution #8-8-94(a) as presented to approve the Improvement Plan for Holly Hill Apartments for the fiscal year ending 6/30/93, which is a procedural plan to reduce turnaround time for occupancy, seconded by Mayor Pro Tem Jessen, with all in favor. (copy attached)

As a result of current survey data, Councilman Small **MOVED** to adopt Resolution #8-8-94(b) as presented to approve an increase in utility allowances for residents, seconded by Councilwoman Harris, with all in favor. (copy attached)

City Manager Ponder presented a proposed School-Community Cooperation Agreement and Supplement between the City and the County school board which consolidates two existing agreements into one; the rental on the old gym is \$1.00 per month. Mayor Pro Tem Jessen **MOVED** to authorization the execution of the Agreement and Supplement as presented, seconded by Councilman Helms, with all in favor.

City Manager Ponder reported he has two requests for extension of the City's extraterritorial jurisdiction for two subdivisions. Both are partially outside the city and partially inside. The developers want to only have to deal with one governmental entity. Zoning Administrator Roberts said they have informed him they plan to eventually be annexed. City Attorney Michael recommended they request approval by the County Commission first in light of its

objection to the City's application for two mile ETJ, then the City would be in a better position to expend the time and money necessary. In response to Mayor Pro Tem Jessen, Mr. Michael said public hearings are required as it would involve a zoning map change. Mayor Pro Tem Jessen **MOVED** that the staff contact the developers and suggest that County approval be obtained first, seconded by Councilman Duke, with all in favor. The City Attorney suggested the City write Phil Hinely advising the Commission as to why the City has sent the developers to them.

Councilman Hope **MOVED** to set a public hearing for consideration of rezoning the Cove/Summitt/Highland Street target area from R-8MF to R-8SF, seconded by Councilman Duke, with all in favor. Mr. Roberts reported that the Planning Commission has recommended that a portion of the area remain R-8MF, and he has received a petition that part of the area be rezoned to R-10.

The matter of three variances from the subdivision regulations by First Colony Group had been voluntarily removed from the agenda along with its request for voluntary annexation of the old Nims Property.

City Manager Ponder said that if the Council is serious about enforcing parking downtown an amendment must be made to section 13-48 and a proposal was presented. He stated they may opt to do away with the two hour limit, or may continue as it has been. Currently, the police go to the offending person and express the complaint received, and ask them to move the car, which they usually do. One business person is complaining that the another business person is parking in front of the first business's store. However, he finds 2/3 of the spaces are empty most of the time, although this is a very upsetting subject to the merchants. The Council took no action.

Upon recommendation of the Planning Commission, Councilman Duke **MOVED** to reappoint Chuck Carpenter, Jerry Miller, and Hazel Michael for three years terms beginning September 1994, seconded by Councilman Small with all in favor.

A variance request was made by Dale Sumpter to subdivide two lots off Belton Avenue which are four acres each. He wants to make four lots at two acres each. The owner, Mr. Overcash, wants to deed one lot to each of four daughters. The Planning Commission recommended this be tabled for more information as to control of use and easements. City Attorney Michael suggested the plat show the road right-of-way even if it is not required that a road be built on it now or even if it remains a private right-of-way. The matter was tabled until the September meeting upon **MOTION** by Mayor Pro Tem Jessen, seconded by Councilman Helms, with all in favor.

The Council considered a request by Code Enforcement Officer Danny Jackson for civil penalties to be assessed against 118 Oakland Road for violation of Sections 72.4 and 41.54. Mr. Roberts reported that he has been giving notice and holding hearings since

1991. Mr. Teague was present and asked for 30 days time and for the City to put in drain pipe in the ditch on his land so he can build a fence to hide his stuff. Mr. Roberts said there is general debris which require an enclosed garage, a fence being inadequate. Mr. Teague was informed that the City cannot go onto private property to fix a drainage problem. Councilman Hope suggested the Council delay action for 30 days at which time the Council will listen to a progress report from the Zoning staff and a decision will be made then. The Council concurred.

City Manager Ponder has received a request by the PTO President at Catawba Heights Elementary for reduced speed limit on the Belmont-Mount Holly Road during school hours (about four hours a day) from 35 mph to 25 mph. Mr. Ponder said DOT balked when he put in the flashing lights and refused to allow the City to paint "School" on the highway to indicate the zone; in its opinion the school is too far away from the highway. That road is a State road. Mr. Ponder stated that the City now has reliable crossing guards there, and the Chief thinks it will be hard to enforce a 25 mph limit on a thoroughfare but he has no strong feeling either way. Mayor Pro Tem Jessen felt it is inappropriate to lower the limit below 35 mph there. David Anthony said the Catawba Heights Baptist church school is on the highway instead of two blocks away, so maybe we could request it on that basis. The City Manager suggested strictly enforcing the 35 mph limit for a couple of months and then take action if that does not help. Mayor Pro Tem Jessen **MOVED** to table this matter until the September meeting, seconded by Councilwoman Harris, with all in favor.

Change Order Number One to the contract for the Mount Holly elevated water storage tanks with CBI Na-Con dated July 18, 1994, to delete all work associated with culvert repair at the South Tank Access Road, was approved upon **MOTION** by Councilman Hope, seconded by Councilman Duke, with all in favor, which will reduce the contract by \$2,600.00, making the new total \$1,239,400.00.

Tax releases totalling \$46.62 dated August 8, 1994, were approved upon **MOTION** by Councilman Duke, seconded by Councilman Small, with all in favor.

The floor was opened to complaints or petitions not on the agenda. Lynn Dunn asked the Council to immediately do a corrective zoning on the Nims Property to R-10SF.

David Anthony asked that the speed limit on Highway 27 through town be reduced to 35 mph, and that the signalization at Hawthorne be studied.

Councilman Hope said he got a letter from a 10-year old citizen suggesting that the water tanks be painted artistically like the earth.

Councilman Small asked for cost estimates and a sketch for a dedication plaque for the new police department building.

Councilwoman Harris asked the Council if September 24 would be acceptable for an employee picnic day. The Council concurred.

Mayor Pro Tem Jessen said the Lower Catawba Basinwide Management will be meeting at Belmont Abbey on August 25 at 8:30 A. M. Mr. Ponder said they will cover what the State will require and what the City's financial involvement will be.

Mayor Pro Tem Jessen reported that the DOT hearing for the bridge replacement over the Catawba River will be August 16. City Manager Ponder said he has the map and report in his office.

City Manager Ponder said the Mayor has asked the Council to consider putting a logo on the northern water tank also. He estimates the cost to be \$2,585 for the city's name, and \$4,235 for the seal. Mayor Pro Tem Jessen did not feel it is necessary since it sits next to the water plant, and others agreed it might be perceived as a waste of money. Mayor Pro Tem Jessen **MOVED** that the City not paint a seal or logo on the northern water tank, seconded by Councilman Helms, with five ayes and one nay (Small).

The Council took a five minute recess.

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

Mayor Pro Tem Jessen **MOVED** that the City Attorney correspond with Attorney Vickie Whitley that the Petition from the owners in Cottonwood Acres was received and the request for rescission of the variance has been considered, but the Council has chosen to take no action. Motion seconded by Councilman Hope, with all in favor.

The meeting was adjourned upon motion by Councilman Duke, seconded by Councilman Hope, and carried unanimously, at 11:25 P. M.

Phillip S. Ponder, Jr.
Clerk

Robt. B. Jessen
Mayor Pro Tem
