

Regular Meeting
City Council
July 11, 1994

The regular meeting was called to order by Mayor Charles B. Black, Jr. at 7:30 P. M. Those present were Councilwoman Phyllis Harris, Mayor Pro-Tem Bob Jessen, 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, City Attorney Kemp Michael, and a Police Department representative.

The invocation was led by Rev. Robert B. Arnold.

Councilman Small MOVED to approve the minutes of June 7, 13, and 20, 1994, with the following correction: June 13, second page, first paragraph, change seconded to "Helms"; motion seconded by Councilwoman Harris with all in favor.

The regular meeting was recessed and a public hearing called to order by Mayor Black, for consideration of corrective rezoning of property as identified in the petition for two areas, the first being the Norton Road/First Street/North Main Street, and the second being the East Side (Alexander, Elm, and North River Streets). Zoning Administrator Gary Roberts pointed out the areas on the Corrective Rezoning map. A woman asked why the City does not want apartments. Mr. Roberts said there have been a large number of citizen complaints about apartment complexes in their single-family neighborhoods. Mayor Black noted this has been worked on for two and a half years and the intention is to protect the already established neighborhoods. Mr. Danny Todd, 156 N. Main, said he wants this change to be approved, and he is opposed to multi-family being allowed in R-8 districts where older neighborhoods are already established as single-family; he said there are only single or double lots left and they are building small complexes of four or seven units which are traditionally not maintained well. However, Mr. Todd asked if the North Main section could be rezoned to R-10 single-family rather than R-8. Mr. Roberts said that the lot sizes there would allow R-10, but he did not know if that could be done without re-advertizing. Mr. Bob Black, 401 Harmony Lane, said the neighborhood is quiet and the streets are narrow and he is in favor of it being rezoned to single-family only. Mr. Lawrence Pruett, Kings Mountain, said he bought a duplex on Meller Street in 1982 and he inquired as to how this rezoning would affect his property; Mr. Roberts said it would be a "grandfathered" non-conforming use. Councilman Jessen stated that although there has been a lot of objection to apartments, he felt the Council should identify areas where duplexes would be permitted in established single-family neighborhoods. Mr. Bob Friedl inquired about the new style of semi-attached houses, called "cluster" houses, and he felt they should be permitted. Mr. Roberts stated his opinion that a new form of use like that should be addressed in the upcoming revision of the whole zoning ordinance text. Councilman Hope inquired if the proper notices

had been given; they had per Mr. Roberts. Mr. Hope said he would like to consider the request for R-10 on the one section. City Attorney Michael stated there would have to be re-advertizing for that and he suggested the ad mention both R-8 and R-10 will be considered. In response to a question, Mr. Michael stated that building permits cannot be obtained for multi-family use construction in the areas already advertized to be rezoned to single-family. There were no further comments and the public hearing was adjourned, and the regular meeting resumed. Councilman Jessen made a motion in favor of the rezoning excepting the North Main Street area, seconded by Councilman Hope. The Council asked Mr. Roberts to make a list of the tax parcel numbers for the area on North Main Street that will be considered for R-10, and delayed action until later in the meeting.

The regular meeting was recessed and a public hearing called to order for consideration of amendment or repeal to Section 20-117(b) regarding roof pitch requirements. The appearance criteria for manufactured housing currently requires a 4-12 pitch. The Planning Commission has recommended removing the requirement due to the extra cost it causes. Mr. Ralph Michael said it should be changed because regular houses can be flat so it should not matter. Mr. David Anthony, Planning Commission, objected to changing an ordinance as a reaction to a couple of complaints; he had checked into it and the cost was not a large amount. There were no further comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** to amend Section 20-117(b) to delete the roof pitch requirement, seconded by Councilman Helms with all in favor.

The regular meeting was recessed and a third public hearing called to order to consider a request for rezoning two parcels on Pearl Beatty Road. Mr. Roberts reported that the site plan is not completed and the Planning Commission tabled action on the matter until next month. There were no further comments. Mayor Black declared the public hearing to be recessed for continuation at next month's regular meeting.

The fourth public hearing was called to order for consideration of an amendment to the subdivision regulations, specifically Section 17-VIII-1 to increase the lot size in a subdivision where recreation area will be required to be set aside. The increase would be from 9,999 to 19,999 square foot lots in subdivisions of 10 acres or more. Councilman Jessen stated his support of the idea behind this regulation, but was concerned about a recent Supreme Court decision which ruled against an Oregon city when the developer protested the city's use of a portion of his land for a park. City Attorney Michael stated that the case in Oregon is different from Mount Holly in that the city out there was requiring the developer to give the land to the City for public use; Mount Holly does not, but instead has three other options for setting aside recreation area. Councilman Hope inquired as to the applicant for this amendment. Mr. Roberts said he had proposed this last December due to the number of new developments proposed

in our city. Hazel Michael, Planning Commission, said Mount Holly has been fortunate that the developers have had land in flood plains, etc. to use for greenway, but she is concerned they might sue Mount Holly if they had all prime land. Leland Claron said some developers might not use the recreation area properly and the city should take payment in lieu of recreation area sometimes. The Planning Commission had recommended approval of this action. There were no further comments. The public hearing was adjourned and the regular meeting resumed. City Attorney Michael inquired about the size and type of recreation area being set aside on the Nims Property site. Mr. Roberts said there is altogether about 20 acres along Dutchman Creek, and it would be useful for walking, volleyball, etc. Councilman Hope asked who would maintain it. Mr. Roberts said the developer or subdivision residents would have to do so. Councilman Duke moved that the recommendation of the Planning Commission be accepted and Section 17-VIII-1 be amended as presented, but there was no second. Councilman Jessen **MOVED** to table the matter, seconded by Councilman Hope and carried by five ayes and one nay (Duke).

The Council discussed possible action on the proposed amendment to the fence height requirements. There was discussion about the recommendation made by the Planning Commission and the Council agreed to change the height for front yards to five feet. As to existing fences in violation of the new ordinance, Mr. Roberts stated his opinion that fences built in violation of the old must comply with the new. Councilman Hope said the City should not adopt anything that cannot be enforced and he was in favor of grandfathering all existing fences. City Attorney recommended a permit be required so fence construction can be regulated. Councilman Helms agreed but said there should be no fee. Councilman Hope **MOVED** to adopt the proposed Section 20-104 with the following changes: paragraph 1 amended to a height of five feet; and add paragraph 8, thus: "All construction of fencing will require that a permit be obtained prior to construction, however there shall be no charge for the permit." This motion was seconded by Councilman Duke with all in favor. (copy attached)

The Council took no action with regard to the agenda item for Cottonwood Subdivision street alignment change.

Mayor Black noted for the record the letters and petitions received, and recited the nominations for appointment to the Planning Commission for outside alternate member, which were Lloyd Gann, Wayne Beatty, and Lynn Dunn. The vote was Gann-1, Beatty-0, and Dunn-5. The Council will recommend Lynn Dunn for outside alternate to the County Commissioners. Councilman Hope **MOVED** to reappoint Jim Lindsey as inside alternate member, seconded by Councilwoman Harris with all in favor.

Consideration of the fire inspection agreement with Gaston County was tabled until the City Manager receives all the necessary information, upon **MOTION** by Councilman Hope, seconded by Councilman Small, with all in favor.

Public Housing bids were too high and will be rebid by the City Manager. This matter was tabled upon **MOTION** by Councilman Hope, seconded by Councilman Jessen, with all in favor.

The engineer for CEKA, INC. has certified to the City as to the water line serving Kendrick Industrial Park, and that the Agreement has been complied with. Councilman Small **MOVED** to accept ownership and maintenance of the 12-inch water line serving that subdivision, seconded by Councilman Duke with all in favor.

CEKA, INC. has requested the City (1) to seek an amendment to its agreement with CSX to allow them to use the existing crossing until it can be relocated, and (2) to pursue the relocation of the existing crossing 1500 feet to the north for safety reasons. CEKA agreed to share payment of the cost of the relocation as previously agreed. Mr. Broome stated that since 1990 he has contacted everyone he can including Congressman McMillan but the railroad refuses to deal with a private citizen or company. He continued that Kendrick Street is a dedicated street and appears and has appeared on the Powell Bill fund maps. The Utilities Commission will not intervene for him but will for a city. CSX if refusing to follow Federal guidelines and requiring signals. Councilman Jessen inquired about signals. City Manager Ponder said signals are estimated to cost \$110,000, and CEKA has agreed to pay for that. Councilman Hope asked in what way this will benefit the City. Mr. Ponder said CSX will never allow two crossings, and that although the existing one is suitable to the City, CEKA will not be able to develop the industrial subdivision without access across the railroad. Mayor Black reminded the Council that the City designated the area for industrial growth several years ago. Councilman Jessen supported intervention by the City. Councilman Duke **MOVED** to authorize the City Manager to proceed to negotiate with CSX for the two items requested, seconded by Councilman Jessen, with all in favor.

Architect C. E. Helt presented three proposals for City Hall renovation floor plans. He recommended the Council choose a plan, set priorities and then budget it in phases. Mayor Black recalled that A & E Mills owned the building years ago and donated it to the City, and that it should be utilized as it is solid even if it is old. City Manager Ponder stated that the Handicapped Act requires that the City install handicap accessible restrooms, and in his opinion, the collections area needs to be more secure. He also recommended that the Archives Room be moved to a larger and more secure place. The three plans and rough estimates were: 1. handicap restrooms-\$25,000.00; 2. renovation of City Hall building-\$80,000.00; and 3. renovation of City Hall and old police department buildings-\$125,000.00. Councilman Helms said he would support the expenditures if the Council agrees City Hall should remain at this site for at least ten years. The Council agreed that this is likely. Mr. Helt said ceiling renovation would add \$34,000.00 to the estimate. He expects the estimates to be within 5% of actual. Mr. Ponder said these figures to not include a new

phone system which may be needed if Superintendent Nichols moves his office to City Hall. The City Manager recommended drawing B. All six councilpersons agreed on drawing B, and authorized the City Manager to get cost estimates.

On the City Manager's recommendation, Councilman Hope **MOVED** to declare the following items additional surplus to be sold at the City auction on July 16: three 6-yard dumpsters, a pavement roller, a small utility trailer for roller, a Wheelhorse tractor, and a Sears tilt trailer; motion seconded by Councilwoman Harris, with all in favor.

A request for rezoning by Morehead Properties for the old Nims Estate property from R-8MF, R-10, and R-12 to R-8SF, was approved upon **MOTION** by Councilman Duke, seconded by Councilwoman Harris, with all in favor, to be held at the August 8 regular meeting. Jim Coates, of First Colony Group, Ltd. has filed a petition for voluntary annexation for the property owned by Morehead Properties, formerly the Nims Estate property, on North Main Street. A portion of the property is inside the City limits, and the remaining 70 acres would be annexed. The City Attorney asked if the Council would like to consider the matter; all six agreed. Mr. Michael noted the company has requested that the effective date be one year after the annexation, but he would suggest that if this is allowed, the date be at the end of a month. Councilman Hope **MOVED** to adopt Resolution #7-11-94(a) directing the city manager to investigate the petition, motion seconded by Councilman Jessen, with all in favor. (copy attached) City Manager Ponder reported that he and City staff have reviewed the petition and site plans and he was prepared to sign the Certificate of Sufficiency, which he did and presented it for the record. (copy attached) Councilman Jessen **MOVED** to adopt Resolution #7-11-94(b) to set a public hearing on the matter for the August 8 regular meeting, seconded by Councilman Hope, with all in favor. (copy attached)

A public hearing was set to consider corrective rezoning of three target areas pursuant to the schedule for the August 8 regular meeting, upon **MOTION** by Councilman Jessen, seconded by Councilman Duke, with all in favor.

Councilman Jessen **MOVED** to approve the tax releases dated July 11, 1994, for insolvents for 1984 through 1993 in the amount of \$850.13 taxes and \$51.00 tag fees making a total of \$901.13, seconded by Councilman Duke, with all in favor.

Mr. Roberts presented to Council the list of tax parcels on North Main which would be in the area to be considered for rezoning to R-10SF. Councilman Jessen made a restated **MOTION** as follows: That all parcels subject to rezoning as set forth in the notice of public hearing which notice appeared in the Mount Holly News on June 22 and 29, 1994, and which parcels were the subject of a public hearing held this night be rezoned from R-8MF to R-8SF, except for certain parcels which shall be retained for a further

public hearing to consider rezoning to either R-8SF or R-10SF, these certain parcels retained for further hearing being identified on the current tax records of Gaston County as the following: Book 3, Map 9, Parcels 66.01, 70, 63, 64, 65, 60, 68, 69, 94, 95, and 96. This motion was seconded by Councilman Hope and carried unanimously.

The floor was opened for complaints or petitions. Mr. Merlin Brown asked for a report on the water tank on North Main. City Manager Ponder stated that the painting was not done satisfactorily in that the outside needs another coat, and they are not sure of the inside. However, the painting subcontractor left. He reported that the subcontractor was bought out by a competitor of the contractor and this delayed the City being able to get them back here. They have returned and CBI has agreed to do an outside coat and will test the inside coat to be sure it is right. Once this is properly done, the electrical and hookups can be finished. Also, they are not to leave town until the South Main tank is properly painted.

There were no other complaints or petitions.

The Council took a five minute recess.

City Manager Ponder reported to the Council that McLean Street (formerly Smith Street) will require two sight and slope easements at the corner on Belton Avenue for safety; that we have obtained one right-of-way, but the other is owned by a lot of heirs who have asked for an unspecified amount of compensation. He asked for direction and permission to condemn if they refuse to negotiate. Mr. Nichols reported that the widow and one son live at the property, and have agreed to sign. City Attorney Michael noted that this road improvement will benefit their property value, and he suggested letting the neighbors exert peer pressure on them; he said he can condemn it but that will involve appraisal fees, court costs and attorneys fees. Councilman Duke **MOVED** to authorize the City Manager and City Attorney to condemn for the easement if the owners do not negotiate and sign a right-of-way promptly. Councilman Small seconded this motion and it carried by unanimous vote.

City Manager Ponder informed the Council that Attorney Vickie Whitley has asked to meet with him and the City Attorney regarding the Cottonwood Acres matter. He received a letter from Clyde Ledbetter, DOT, stating it does not intend to change its approval of the alignment. City Attorney Michael said he has reviewed the DOT letter and concurs with the statements contained in it. Mayor Black said he had informed some persons that were in the audience earlier that this matter would not be acted upon tonight.

Councilman Jessen **MOVED** to go into executive session for personnel reasons, seconded by Councilman Helms, with all in favor. Council returned to regular session upon **MOTION** by Councilman Small, seconded by Councilwoman Harris, with all in favor.

Councilman Hope reminded the Council that September is the deadline for action on the sign ordinance. The Council set a workshop meeting on July 25 for the Land Development Plan, and a workshop meeting on August 2 for the sign ordinance.

Councilman Duke asked for street repair in front of Mr. Maxwell's house.

Councilman Jessen reported water backed up out of the storm drains on North Main near Dutchman Creek bridge after heavy rain recently.

Councilman Jessen requested the City Manager consider using spiral-bound agendas.

The meeting was adjourned at 10:55 P.M. upon **MOTION** by Councilman Duke, seconded by Councilman Small, with all in favor.

Phillip G. Gonder, O.
City Clerk

Charles H. H. H. H.
Mayor
