

**CITY COUNCIL
REGULAR MEETING
July 10, 2006**

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 Whitt. The following were present:

Mayor Robert Whitt

Mayor Pro-Tem Phyllis Harris

Jamie Guffey, Assistant to City Manager
for Finance/Administration

Danny Jackson, Asst to City

Mgr for Community Development

_____, Interim Police Chief
Dale Oplinger, Fire Chief

Councilman Jim Hope

Councilman Jerry Bishop

Councilman Frank McLean

Councilwoman Pat Hubbard

Councilman David Moore

Mike Santmire, Street & Solid

Waste Director

Greg Beal, Community Dev. Officer

Ryan Baker, Fire Inspector

City Manager David Kraus

City Attorney Kemp Michael

INVOCATION

The invocation was led by Rev. Larry Kimmell, First United Methodist Church.

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 upon motion by Councilperson Hubbard, seconded by Councilperson McLean, with all in favor.

CONSENT AGENDA

Councilperson Harris **MOVED** to approve the Consent Agenda with two (2) items, seconded by Councilperson Moore, with all in favor. The items approved were:

CA#1. To Accept and Approve the Minutes. July 3, 2006 Board of Adjustment and Planning Commission.

CA#2. To Approve Final Plat for Phase 3B, Map 1, Stonewater Subdivision. Approval is contingent upon developer providing necessary financial guarantees.

PRESENTATIONS

PR#1 Recognition of Officers Wright and Skidmore

Interim Police Chief _____ presented recognitions to two police officers, Officer Wright and Officer _____, who were checking two different locations. Officer

Wright came upon 3 men in the roadway who had burglary tools in an area that had a run of burglaries. Sergeant _____ gave him a commendation award. Officer Skidmore was at the Mtn. Island boat landing and was checking the area, when he saw a vehicle had smashed windows; he caught 3 individuals and recovered stolen goods. Mayor Whitt expressed how thankful we are for all that the police officers do.

PR#2 Recognition of Dave Hart for service to Mount Holly

The Mayor and Council presented a framed resolution to Dave Hart, regional manager of Duke Power, who has worked with our city and helped us throughout his tenure.

Mr. Hart said although he does not deserve it, he was appreciative, and he said he had enjoyed working with the City and its staff over the years.

PUBLIC COMMENT

Jerry Miller, 310 Walnut Avenue. He spoke about street lighting. He said he knew the area downtown is having problems getting finished because of CSX. But there are street lights that have been out on Highway 273 in some cases 3 years; there are seven lights that are out on Highway 273. How do we get Duke to get that done? There are others around town, too.

Charles Guignard, Huntersville, NC. I have been involved in Mount Holly for over four years, and I thank your staff and Council who have always been gracious as I rebuilt the train depot. One reason I did that because of long term potential, because of the railway. I understand that you have potential plans for a linear parkway. I know what it takes to deal with CSX, it took two years to buy the property I bought. I also understand that they want some crossings closed; I would ask you to consider all persons if those crossings are closed. It would change what my property could be used for if you close that crossing because it would not be on the circuit of traffic but on a dead end, which would be detrimental to my business. Thank you for your time and your encouragement in my development.

Leigh Brinkley, 120 Oakland Street, for the Mt. Holly Comm. Dev. Foundation, we would like to partner with the City to buy hanging baskets and supply liners and plants, and to help with watering them. Mayor Whitt thanked them for offering to do something for the City, and said the Council will discuss it later.

PUBLIC HEARINGS

PH#1 To Consider Rezoning 147 N. Main Street (Oakleigh Estates)

Councilperson Harris moved to go into public hearing, seconded by Councilperson Bishop, and unanimously carried. Mayor Whitt recessed the regular meeting and opened the public hearing to consider rezoning upon request by The McAlpine Group and Edna Chirico.

Councilperson Hubbard stated that she is involved in this situation and so would excuse herself from discussion and voting on this matter.

All persons who had signed up to speak along with city personnel involved in this matter stood, and Mayor Whitt administered the oath for testimony; all responded in the affirmative.

Greg Beal stated that this is a request for B-1 Conditional Use rezoning from R-10. Staff has been meeting with the developer for about three months and they have incorporated staff's comments into their site plan, such as a buffer area on Cedar Lane. They will be using an arborist to preserve some existing trees and add trees. The Planning Commission recommended in a unanimous motion that the council approved the request with the additional condition that an independent traffic study be conducted, and, if all access points can be closed on Cedar Lane, to do so.

Councilperson McLean stated that the adjoining property owners on Cedar Lane are disturbed about this, and he understands that the Council can choose to do the traffic study but he didn't think the City needs a traffic study. He thinks the City should close the Cedar Lane access. The question is: How will the emergency personnel get in there? Mr. Beal said that has been addressed by the emergency department heads. The developer had traffic studies done but they had not been completed at the time of the department head meeting; however, it is finished now and they can present their findings. City Manager Kraus stated for clarification that the developer is going to have private collection of trash, not by city services, and by use of mini-bins. Mayor Whitt asked, do we have a list of conditional uses? Mr. Beal said they are on the left side of the site map. Mayor Whitt asked, does staff have any other conditional uses staff would like to add? Mr. Beal said staff has met with them already and our concerns have already been addressed. Mayor Whitt asked, do you feel we have sufficient conditional uses? Mr. Beal said that Council may request any other conditional uses they would want. Mayor Whitt asked, have you talked with the residents on Cedar Lane? Mr. Beal said they attended the planning commission meeting, and mainly their concerns had to do with traffic. The buffer issues will be dealt with by the arborist. Mayor Whitt, this would be B-1 with conditional uses; what is the height limit? Mr. Beal said, it is 50 feet, but that does not address the text amendment we are going to discuss later tonight. Councilperson McLean asked, is there going to be four stories? Ms. Chirico said it is 3-1/2 stories. Councilperson McLean expressed the concern that these buildings would be so high that Cedar Lane residents would not see the sun. Councilperson Hope stated that he wants a stop sign at that curve, and he thought that entrance should be an emergency exit only, and also that they should have the street widened with curb and gutter. Councilperson Moore said he had already talked with them about the emergency only exits, and also that he has concerns about whether it should be a fence or a berm with plantings; in addition, he agrees with the need for widening of the street.

Edna Chirico, ChiricoHuber, the Developer. With her were two men from McAlpine Companies. She passed out written supplemental information, and gave a powerpoint presentation. This project will focus on senior citizens, with 82 restricted condos. The Oakleigh main house will be protected by applying to the historic register, and will be income producing.

Mr. Charles Lindsay McAlpine, McAlpine Company. This is a quality residential project, designed as an active community and is in line with your downtown improvement.

Michael Fess, engineer, 1329 E. Morehead St., Charlotte. Three buildings are placed to keep a view of the corridor and for maximum preservation of natural area and trees. This is a half story over what you now require, but we are meeting all other overlay requirements. This has parking incorporated. The stream is being looked at by the Army Corps of Engineering, and we will install a walkway to downtown. It is intended to maintain the park-like atmosphere of the property, and is designed in antebellum styles to be comparable to the homeplace. The units are ADA compliant and have AARP design features, with balconies and screen porches. Most will be two bedroom and about 1200 square feet. There will be elevators. If we are limited to three stories, that would mean we would have to build more buildings to make the project feasible, and will affect the park-like setting. This number of condos is needed to generate homeowner's dues to maintain the property and the main house. Highway 27 will be the main entrance for two of the buildings. Building 1 is at least 50 feet from any other property, and we have moved the building as requested. We will widen the road and recommend two stop signs. We are removing only a very few of the existing trees. We have several patio areas on the second floor. There are several pedestrian trails. The DOT states that this will have minimal traffic impact. We met with the fire department and have complied with their needs. We were not planning to curb to give a similar look to Kiawah. We have a contract on the Kimbrell's building and plan to participate in the refurbishing of that building. This will produce tax revenue and increase your median income level.

Mayor Whitt asked of Ms. Chirico: You have made written comments related to the findings of fact. Would like these placed into the record? She replied, Yes. (So submitted.)

Councilperson McLean asked if they have plenty of fire hydrants. Ms. Chirico said they have worked with the fire department to plan those. There will be fire hydrants on the property, and the buildings will have sprinkler systems. Councilman McLean stated that the current water line is not big enough. They agreed that it is too small and that it will be changed to an appropriate line.

Dr. Raymond Jocabitis, 155 E. Charlotte Ave. Office at 126 W. Charlotte Ave. Initially, I thought this was a bad idea in a bad location, because I like the idea of preserving the history of this town. I had heard it was supposed to be 40-50 units, and now it is 82; so I question the credibility of the developer. I believe the traffic study is grossing underestimated. I talked with the Bistro 27 chef, and he said they are trying to buy that building also and force him out of his lease. I think they are telling you what you want to hear. My hairdresser said an 80-year old woman is being hounded by Chirico to sell her property, and is afraid she is going to lose her property. He submitted his written statement for the record.

Michael _____, Patrick Place. Chairman of Mt. Holly Comm. Dev. Foundation. Our committee has developed a process of examining proposed projects to see how they comply with our vision of health, image, downtown revitalization, and economic development. He submitted the Foundation's support letter for the record. He also thanked the Council for its work to advance these common goals.

Ben Taylor, 104 Cedar Lane. His biggest concern is that Cedar Lane is a very small street, and any additional traffic would be detrimental, and they should not have exits onto it. He feels this project will lower property values for the existing properties. The drawings of the buildings look nice on the front, but he will be seeing the backs, and he has not seen pictures of the backs. It will be like three dormitories. There will be large equipment during construction. It will destroy the historic value of that house. It will affect the small downtown feeling. It will harm a tight-knit and small community. There is no view presented from Highway 27 and from Cedar Lane on the drawings. Also, flooding is a problem; it already has a problem with that. I have sent you a letter with a petition in it already. (Submitted to record.)

Shelly King, 103 Cedar Lane. I am the house in the curve. No one has called to talk with us. I don't want any entrances on Cedar Lane. They won't be able to keep it an only emergency use. When it rains it comes down Cedar Lane into my yard. They will have to cut down trees to widen the road. My kids enjoy going out to play and feel safe now. Traffic will definitely be a problem; we can't pass two meeting cars now.

Wendy Foster, 120 Antelope Drive. I heard stormwater mentioned. As chair of stormwater committee, we looked at the project and went to the engineer and he has addressed our concerns so that there will be a retention pond and piping, and they are being compliant with all of our demands. Also, please let the public know if they are having a problem with stormwater, to contact the city and our committee will work on that.

Linda Hopkins. 101 Cedar Lane. I had concerns about drainage. The noise barrier of 15 feet is not enough. Widening of the road will require new pipes under the road and new drainage ditches and will remove three of my trees.

During construction, it will have to be too much to deal with for us. This should not be done at the cost of the existing families that are already there.

Margaret Hollar. 110 Cedar Lane. She gave a written statement. Entry to the complex on Highway 27 is better. Additional traffic on Cedar Lane will be too much. A forested buffer is necessary to minimize the impact of this development to our homes.

Evelyn Jenkins. 108 Cedar Lane. I live right in front of the complex; one of the openings is at my front door. I am concerned about the traffic, the pollution, dust, noise, big trucks, and activities that we will have to endure. It may be good for these people, but what does it do for us? Give us some consideration. If it is decided to widen the road, is that the town's responsibility? Will we be paying for it? If you lived on Cedar Lane, none of you would want this in front of your house. I am 85 and lived there over 50 years. Leave Cedar Lane alone.

Star Collins. 224 W. Charlotte Ave. I do not a lot of problem with the condos in themselves. I have lived here 30 years. There should be some consideration to the people who have lived here, and supported existing businesses. This will be in my backyard, and they have not addressed how they are going to handle the Highway 27 entrance. I work fulltime and go to school, and have a different schedule, so I sleep in the day. On First Street, we will be dealing with the noise in our backyards. They will generate traffic; that is not true that it will not make more traffic. Please address how it is going to affect First Street residents also. They should not have exits on Cedar Lane.

Mayor Whitt declared the public hearing recessed.

PH#2 To Consider Amendment to Downtown Overlay District

Councilperson Harris moved to go into a public hearing, seconded by Councilperson Moore, and unanimously carried. Mayor Whitt recessed the regular meeting and opened the public hearing to consider amendment to downtown overlay district.

Greg Beal said this is a text amendment to Section 3, height limitations. There is a 3-story height limit currently. It is not measured by actual height from ground level. The intent of the ordinance should be considered.

The Planning Commission noted that the corridors are protected and are upheld by the site plan and recommended approval.

Mayor Whitt, why was the entire parcel for Oakleigh included in the overlay district? Mr. Beal said it seems that the tax parcel lines were used when the map was prepared because that is the simplest method. But, the rear portion of that property is not on the main corridor as was intended by the overlay district.

Ben Taylor, 104 Cedar Lane. It seems to me that the intent of the original ordinance was for a good reason, to restrict the number of stories that a downtown building should have. The map was prepared and was approved, but now because of a developer we are thinking of letting them have what they want. They should have to conform at the back of the property also; it will affect the view of the whole city.

Shelly King, 103 Cedar Lane. When I look out my front door all I will see is the back side of these condos; I don't want to have to look at that every day, they need to put up a fence.

Councilperson Harris moved to go out of public hearing, seconded by Councilperson Bishop, and unanimously carried. Mayor Whitt adjourned the public hearing and resumed the regular meeting.

Councilperson Hope asked Mr. Beal: What kind of precedence will this set for our overlay that we have in place at this time? Mr. Beal said the Planning Commission stated that the intent of the main downtown corridors would be protected by this plan. For example, if a developer wanted to change a property fronting on Charlotte Avenue, they could not because that is the corridor in the overlay district.

David Kraus said the downtown overlay district manual addresses the fronts of properties on the main corridor streets to preserve the character of downtown. It doesn't address the backs of the buildings at all. Mayor Whitt asked for clarification, it is for design features on the fronts of the properties? Mr. Beal, said yes.

Councilperson Hope asked, so you are telling me that the intent is to protect the main corridor? Mr. Beal replied, yes. Councilperson Hope said the problem he has is that more often we make the foot fit the shoe instead of the shoe fitting the foot. Are we setting the precedent of letting developers change the overlay district? Mr. Beal said anyone can apply for an amendment and the Council considers the request and approves it or denies it. Mayor Whitt asked, are they maintaining the preservation of the old home? Mr. Beal said, yes. Mayor Whitt asked, are they complying with the overlay district except for the height on those two buildings? Mr. Kraus said yes, and if Council moves the district line this is not a requirement to rezone. Mr. Beal stated that he had talked to other cities about how to measure height of buildings, and they vary. Our manual says that it counts only if it is living space. Councilperson Hope said, so that means it would be the same height but just not count as a story if it was not a living space. Councilperson Moore said this is a unique situation. There are very few properties that front on the overlay district that have that size of an acreage property that the Oakleigh property has.

Motion: Councilperson Moore **MOVED** to amend the overlay district map as shown on amended map identified as Exhibit A (along the stream), seconded by Councilperson Harris.

Vote: three ayes, two nays. (Bishop & Hope). CARRIED.

PH#1 reconvened

Mr. Beal said the site plan is currently in compliance, but they will have to present construction documents. Mayor Whitt said there has been a lot of discussion about Cedar Lane tonight. Are there any other questions about that? Councilperson Hope asked the developer, what if you did not have a Cedar Lane back there, could you make this project work? He said, we have to have multiple entrances. We would have to start over with the site plan. Currently we have two entrances on Cedar Lane. We can make the westernmost entrance emergency only, with a locked gate entrance, and can even grass over the driveway so that it would only be used by emergency vehicles. Councilperson Harris said, it's for sure that the people on Cedar Lane don't like this, and we have to find a happy median; I don't want them to think I am turning a deaf ear to them. I am having a hard time with this. Mr. McAlpine said, we will fix the street within the current right of way and ditches. Mr. McAlpine continued, most comments concern traffic and stormwater. This property can be developed now; something will be built there. Kimberly is a premiere traffic firm and their information is respectable. This site is at least 60% pervious development, with low impact on schools, with high disposable income residents. Councilperson Bishop asked, is Highway 27 a main entrance? He said, Yes. Councilperson Bishop asked, will there be deceleration lanes? He said, I don't expect it, but we will do whatever DOT requires. Peak time is certainly an issue to be concerned about. Councilperson Harris said the Cloisters Apartments is a perfect example of how DOT does not always make the right recommendation. City Manager Kraus said, we did have Cedar Lane on the paving list this year and pulled it off because of this project. Mayor Whitt asked, what specifically would you do to Cedar Lane? Mr. Fess said, maintain existing drainage but widen the street. Whitt, are you open to a brick wall or other things? Mr. Fess, to widen the street more would harm the buffer. Mayor Whitt asked, what about the view? Both sides are the same. He showed the drawing; this is both sides of the buildings. Mayor Whitt asked, would that require cutting down trees? Ms. Chirico said that is up to staff, we would want to comply with the City. Councilperson McLean asked, would the widening be on just your side? Councilperson Bishop said it can't be, it has to be from the centerline. Mr. Fess said they would have to have a survey to find the actual right of way line. Councilperson Harris said, we all walked on Cedar Lane; I don't want this to make matters worse for them about the problems they are already having. Mayor Whitt, is this is part of the conditional use? Yes.

Question from the audience: If widening part of the street, which part? How close can they come to the houses? Mayor Whitt said that the street could

already be paved the whole width of the right of way without any change in ordinance.

Mr. Taylor said he would like no entrance on Cedar Lane. They should put in a second entrance on Main Street and build a historic looking bridge to get into the site for the fire trucks. A woman in the audience said, my taxes are going to be paying to destroy my property. We need to know about Highway 27, how will that affect me getting out of my property?

Councilperson Bishop moved to close the public hearing, seconded by Councilperson McLean, and carried unanimously. Mayor Whitt returned to regular meeting.

The Council took a five minute recess.

Discussion followed. Councilperson Moore said, I feel we need to do what we can in consideration of people who live on Cedar Lane about the noise, traffic, construction, and flooding. Also I want to do what is best for the City, and this property is near to my heart. This is probably one of the better things we could ask for to go on a five acre tract that is downtown. I am in favor of this as long as we can find some medium ground with the residents. Councilperson McLean agreed. He is concerned for the residents and want them as happy as possible, and wants to make that drive an emergency exit only.

Councilperson Hope said, no matter what decision is made by the Council, some decision will change the face of Mount Holly, with pros and cons. We have residents that have lived here over 50 years; I know them personally. As a boy I stood at the Oakleigh driveway, and I just wanted to walk down that driveway someday. The integrity of that property has to be upheld and I think the developer is trying to do that. We heard some valid points from the residents. There is a drainage problem out there. We had a similar drainage situation on Glendale and we piped that all the way down, and I think it can be done the same here. The developer can pipe that all the way down. They need a sidewalk on their side. Cedar Lane needs to be resurfaced, but leave the same width so it deters through traffic, have the upper exit only for emergencies, put in speed bumps, and have the other exit on Cedar Lane be a three way stop with no left turn. During construction, they should have one construction entrance off of Highway 27 only.

Councilperson Bishop said they also need speed bumps on Leo Street. This project will be a welcome addition to the City. Having residents downtown draws business to downtown and activities. I am still concerned about the Highway 27 entrance, but I don't know how to alleviate it since I don't know what DOT will do. Whatever you do on Cedar Lane needs to be from First Street all the way down.

Councilperson Harris, when Ms. Chirico first started on this, she asked me to lunch, and she wanted to put across to me the idea of the project. I am not against this project; I think will be an asset to downtown, but I have concerns for the residents that are telling me things and I cannot turn a deaf ear to them. If we can put conditions on this to satisfy them, I am fine with this project.

Mayor Whitt said, it sounds like we want to add some more conditions; let's be sure we have them all. List: Piping on stormwater, sidewalk, resurfacing the road, 3-way stop with no left turn, an emergency entrance only on one of them on Cedar, construction entrance only on Highway 27, widen on highway 27 with turn lane, and speed bumps (but you are starting something if you do it there). Councilman Moore, ask developer, have you heard the conditions, and do you accept them? Developer: 1. Sidewalk on the project's side of Cedar per City standard details from First Street to the 3 way stop at the east entrance, provided existing right of way is sufficient. 2. Two speed bumps on Cedar Lane as directed by staff. 3. A 3-way stop at the east entrance on Cedar Lane and no left turn out of development. 4. Emergency access only exit on west entrance on Cedar Lane designed in accordance with city staff. 5. Sole construction entrance on Highway 27 only. 6. Piping stormwater from First Street down Cedar Street onto their property through Shelley King's property. 7. Resurface of Cedar Lane from First Street through the 3-way stop. He said, we cannot do a turn lane on 27 without DOT approval and right of ways. Councilperson Harris said she agrees with the Mayor about speed bumps, but we are not paying for them, so this is different. Councilperson McLean asked, how soon will you build the entrance off of Highway 27? He said, at least 6 months. Councilperson Moore asked, does staff have any comments about these? They did not.

Danny Jackson said that Council will have to vote on each finding of fact. You have to get a statement from the developer that they accept all the conditions.

Mayor Whitt said the written conditions are in the agenda packet on the presented site plan. Council has also made additional conditions as just listed. Council reviewed list of conditional uses in addition to the new ones added tonight. The Developer said he understands all the conditions and agrees to them.

Findings of Fact:

- A. The Use requested is among those listed as an eligible Permitted or Conditional Use in the District in which the subject property is located or is to be located.

Motion: Councilperson Moore moved to find in the affirmative for the reason that the proposed use, as submitted in the Development Plan, is permitted within the requested Zoning District, as specified in Article VI (Table of Permitted and Special Uses) of the Mount Holly Zoning Ordinance. Seconded by Councilperson Bishop, and carried with five ayes, zero nays.

- B. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

Motion: Councilperson Moore moved to find in the affirmative for the reason that the developer has agreed to comply with all the conditions; has taken steps to address such issues as Transportation and Environment; proposes to make road improvements to the adjoining Cedar Lane; proposes to reduce the amount of traffic onto Cedar Lane; proposes to adhere to the traffic recommendations of DOT and the City; proposes to protect a Wetlands Area of the site by adhering to the Army Corp of Engineers requirements; proposes to create a walking connection to the adjacent commercial and medical facilities in the Downtown District; and proposes to dedicate a greenway trail to the City. Seconded by Councilperson Harris, and carried with five ayes, zero nays.

- C. That the Conditional Use meets all required conditions and specifications.

Motion: Councilperson Bishop moved to find in affirmative for the reason that the Developer has prepared a site-specific map along with a list of Development Standards, as required by Section 4.3 (Conditional Use District) of the Mount Holly Zoning Ordinance. Seconded by Councilperson McLean, and carried with five ayes, zero nays.

- D. That the Conditional Use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity.

Motion: Councilperson Bishop moved to find in affirmative for the reason that the projected value appears to be at least equal or greater than the value of the surrounding properties, and based upon the submitted information, the Use does not appear to substantially injure the value of the adjoining properties. Seconded by Councilperson Harris, and carried with five ayes, zero nays.

- E. That the location and character of the Conditional Use if developed according to plan as proposed, will be in harmony with the area in which it is to be located, and in general conformity with the plan of development of Mount Holly and its environs.

Motion: Councilperson Bishop moved to find in the affirmative for the reason that the proposed development substantially meets the standard set forth in the City's Land Development Plan for the subject area, in that it calls for mixed-use (residential and commercial) in nature. Seconded by Councilperson Hope, and carried with five ayes, zero nays.

Mayor Whitt asked Mr. McAlpine, do you accept conditional uses originally and as amended. Mr. McAlpine said, We do accept them all and also the findings of fact.

Motion: Councilperson Harris moved to rezone 147 N. Main St. as presented in the petition from R-10 to B-1 conditional use with the listed conditions plus the conditions added tonight, seconded by Councilperson Hope.

Vote: Five ayes. Zero nays. Carried.

PH#3 To Consider Annexation of Rehabilitation Hospital Property

Councilperson Hubbard moved to go into public hearing, seconded by Councilperson McLean, and unanimously carried. Mayor Whitt recessed the regular meeting and opened the public hearing to consider voluntary annexation upon request by the owner and developer.

City Attorney Kemp Michael said this tract is approx. 30 acres of land, known as Smith Property on Hwy. 273 near I-85. City Manager Kraus found the petition to be sufficient, and the Council passed a Resolution of Intent to Annex by voluntary petition a contiguous tract. This matter has been duly advertised and notification made as required. I have prepared a proposed ordinance of annexation if you wish to use it.

There were no comments for or against.

Councilperson Harris moved to go out of public hearing, seconded by Councilperson Moore, and unanimously carried. Mayor Whitt adjourned the public hearing and resumed the regular meeting.

Motion: Councilperson Hubbard **MOVED** to approve Resolution #07-10-06A, ordinance to extend corporate limits effective 7-31-06 at 12:01 AM, seconded by Councilperson Bishop.

Vote: unanimous. CARRIED.

UNFINISHED BUSINESS

UFB#1 To Consider Pre-Construction Manager at Risk Contract.

David Kraus stated that City Attorney Michael has prepared a final draft of the contract. Mr. Michael stated that the only difference in tonight's version is on page one, stating that the construction manager will act in owner's best interest. On the last page, the dollar amount is now entered, which is \$116,214.00. This contract is only for preconstruction services. They take the architect's drawings and help the city make changes that will help the overall cost of the project stay within city budget. Then there will be a bid on the various phases of the contract,

put out by the construction manager at risk. The bids will be received and presented to the Council. Once accepted by the Council, the city will negotiate with the construction manager as to the maximum cost of the project, and at that point the Council can proceed, or can reject the bids and abandon the project or have the project re-bid. The current cost estimates are \$6- to \$7 million.

There will be another contract for the construction manager at risk for the construction phase.

Motion: Councilperson Hubbard moved to approve the construction manager at risk contract as presented and to authorize the Mayor and City Manager to execute the same. Seconded by Councilperson Harris.

Vote: unanimous in favor. Carried.

Managers Report

Adrian is done.

On the Tuckaseege pump station, the question was asked, can we divert the new flow? The answer is yes, and we are looking at how to finance it.

We need to set a meeting with the beautification committee, to order Xmas lights if desired, and other things.

Someone has stolen the grates in the street so have to strip weld them.

City Manager Kraus requested that Council consider a policy regarding letters of credit pertaining to annexations, subdivisions, and warranty periods. He explained that the City has experienced difficulties in cashing letters of credit from certain banks. Those experiences have demonstrated the need for staff to have authority to approve or disapprove banks before issuance of letters of credit. In addition, staff believes that banks issuing letters of credit must allow for the presentment and payment to be accomplished within Gaston or adjoining counties. Discussion followed.

Motion: Councilwoman Hubbard MOVED that letters of credit issued in favor of the City must be drawn upon banks which allow for presentment and payment within Gaston and adjoining counties, and further that staff have the authority to reject letters of credit from banks which have demonstrated a prior unwillingness to allow drafts upon letters of credit in a timely fashion. Motion seconded by Councilman McLean.

Vote: Carried by unanimous vote.

ROUND TABLE

Councilperson Hubbard asked what happened to the arrows. Mr. Kraus said DOT said no; they felt it would cause more accidents. Ms. Hubbard asked, can we do it anyway? Councilperson McLean asked, can we take it over their heads to Raleigh?

Councilperson Harris said Mr. Lineberger had called. Mr. Kraus said it is on the list, which is out for bid now, and we will have it to Council at the August meeting.

Councilperson Harris said Matthew Huggins, a volunteer fireman told her that his landlord has a southern rock band, and they want to do a free concert, and he wants to have Ace & TJ come also, with their "Charity Case" event, to raise money for their charity, Grin Kids, which is for the benefit of critically ill children. Ms. Harris thought that suggestion could be tied into the dedication for the streetscape. We don't have to pay, but we have to block the street and pay for personnel. She wanted to know the schedule on the streetscape. Mr. Kraus said within 30 days they should be doing the boring, 60 days to do the traffic signals, so 90 days out to finish streetscape.

Councilperson Harris asked about Mr. Murphy. Danny Jackson said he filed an appeal, and it went to the Board of Adjustment who upheld our decision. He has 30 days to appeal to Superior Court.

Councilperson Bishop asked about the status on awnings. Mr. Kraus said they will be finished up as part of the streetscape project. They put up pavers on the side of the buildings. Leigh Brinkley and John Hope have been working with the property owners to select; they are doing grants.

Councilperson Hope asked, why do we have a sign for a rodeo in Blacksburg here? We gave permission when they had a rodeo in Stanley. Danny Jackson said, we consider this to be different so we will proceed to have it removed.

Councilperson Hope said he has a woman with a problem with a street light at the corner of Stoneridge, and who has called a couple of people with no results.

Councilperson Hope asked, do you have aerators to sell? Mr. Kraus said, we got them free from Clariant and we are not using them. We need the authority to sell and would like to do that by advertising rather than auction for large mechanical pieces like that. Councilperson Hope moved to grant the request, seconded by Councilperson Harris, and carried unanimously.

Councilperson Hope inquired about what has happened on the sports bar issue on West Central Avenue. Danny Jackson said, the ABC office in Charlotte is closed, so the office that is handling this matter is so swamped that it will be some time before they can meet with us.

Councilperson McLean noticed in David's memo that JT Development is back on. Can we not discourage him? We don't like pump stations. Mr. Kraus said that Mr. Tallent won't give a right of way. Mr. McLean wanted to know who will look after it? Mr. Kraus said, that is not determined yet. He has asked WK Dickson to look at their plan. Mr. Tallent said he wants to sell it all or none at all. The developer is going with a pump station and reducing the number of lots.

Councilperson Moore said that the sidewalk at Leo Drive and Woodlawn Avenue needs to be cleaned off. Mr. Kraus said staff has been out there and will enforce.

Councilperson Moore said that now that the park personnel has been reduced, and now the grass has not been cut and weeds are in the swingset area.

Mayor Whitt asked, can we not get the street lights straightened out? Mr. Kraus said he talked with Mike Moretz. Any citizen can call or go online and report them. Councilperson Harris said she believes they get better results that the City does.

Mayor Whitt asked what Council would like to do about the hanging baskets offered by the Committee. Councilperson Moore said they are looking at something similar to what is in Belmont. They are going to Bud's and will get a discount. The Council concurred that the Beautification Committee has Council permission to work with them and they can do the hanging baskets, and we thank you.

Mayor Whitt said he has had several request that we get flags and have them put up on Main Street.

Mayor Whitt said that he plans to use the Land Use Committee to work on the strategic plan, but he may need to add two or three more people. If Council has any recommendations on who to ask, let him know; he wants a good representation geographically.

Councilperson Harris said she did not get something last month in my packet, and also was missing one this month as well.

Councilperson Bishop said he wants memo and agenda envelopes sealed.

City Attorney Michael said he had a proposed amendment to the system development ordinance. Article 3 allowed for grandfathering of existing subdivisions from paying fees. It said the City would issue certificates of exemption. You then voted to stop exemptions. Per Danny there has never been a certificate of exemption issued, although the ones who qualified were not made to pay the fee. This proposed amendment eliminates Article 3 altogether.

Councilperson Hubbard moved adopt Res. #07-10-06B, seconded by Councilperson Bishop, and carried unanimously.

CLOSED SESSION

Councilperson Hope moved to go into closed session for the purpose of discussing personnel matters, seconded by Councilperson McLean, with all in favor.

Councilperson Harris moved to return to open session, seconded by Councilperson Moore, with all in favor.

ADJOURN

There being no further business, the meeting was adjourned, upon motion duly made by Councilperson Hubbard, seconded by Councilperson Moore, and carried.

____ PM
____ Clerk
____ Mayor

cpm