Regular Meeting
City Council
June 14, 1993

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

The invocation was led by Rev. Eugene Johns.

Councilman Jessen **MOVED** to approve the minutes of May 5, 10, and 26, 1993, with the following amendments: May 10, last page, paragraph five, change the name to "Polly Egbert"; May 26, invocation was led by Councilman Small. Motion seconded by Councilman Hope and carried by unanimous vote.

Mayor Black recognized the Co-Chairmen of the Mount Holly Spring Festival Golf Tournament, Julius Goldstein and
The tournament earned a profit and enabled them to present to the Community Relief Organization of Mount Holly a check for $700.00. Mr. Leroy Ramsey accepted the check on its behalf, thanked them and assured them it would be put to good use.

The regular meeting was recessed and a public hearing which began the prior week was recalled from recess, for consideration of the proposed State Mandated Watershed Ordinance. Mayor Black said it is possible the State will allow a delay of the deadline for adoption of these regulations. City Manager Ponder said Governor Hunt has been approached to see if a delay will be allowed, and that State officials have reviewed the proposed Mount Holly ordinance and have asked for certain amendments. Mr. Ponder said the Council may act on the ordinance or continue the hearing again until the already scheduled June 28 special meeting. Mr. Ralph Michael said he does not like the 150 foot buffer requirement and said they should stick to the recommendation of the State for 30 or 100 feet buffers. Mayor Black stated he does not want to overdo it so that business will not be run off, but he knows the Planning Commission has worked very hard on the proposed ordinance. Mr. Carlton Broome said he did not believe it should be stricter than the State had said either. Zoning Administrator Gary Roberts said the entire area and jurisdiction of Mount Holly drains into the Catawba River and since it is a regional resource it warrants protection. Mr. Broome asked if they have supporting data showing the need for the 150 foot buffer to protect the river. Mr. Joel Hubbard asked if the Planning Commission felt the State had overlooked something in all of its studies before it made its recommendation. Mr. Yates Springs, Chairman of the Planning Commission, said most of the 150 feet is in the flood zone anyway; and it was their intent to keep a greenway undisturbed so the river will be better than it is now. Mr. Ralph Michael stated he believes 90% of the water going into the Catawba, River does not come from its banks where the buffer would be, but from the four creeks that drain into it. Mr. David Berg stated he agrees it is important to protect the water as long as Belmont and on down needs the water, but Gastonia is on its way to having its intake in Mountain Island Lake and Belmont will get water elsewhere, and he felt there was no one to protect. Mr. Galen Cassada stated he talked to a Mr. Roberts with the Environmental Management office in Raleigh, and asked him why a lot of cities are using the 150 feet. He said Mr. Roberts told him there is no real reason and he had not proof that 150 feet would be better. Mr. Cassada asked the Council to stick to the buffer the State recommended. Councilman Hope said he had talked with Mr. Roberts in Raleigh as well and got the same information; and further that $10 million and 10 years was spent studying watershed protection. Mr. Hope reminded them that the largest property owner along the River in our jurisdiction is Crescent Resources, Inc.. Councilwoman Nichols stated she would prefer to use the buffer the State recommended and not hurt our property owners. Councilman Small concurred. Mr. David Berg suggested the matter be delayed as long as possible in case they even change their minds; Councilman Jessen agreed. Mayor Black said the County has until January, and it will control the ordinance that will regulated Mountain Island Lake because that is outside our jurisdiction. There were no further comments and the public hearing was recessed, and Councilman Hope **MOVED** to continue this public hearing until the June 28 special meeting, seconded by Councilman Jessen and carried with six ayes.

City Manager Ponder reviewed the changes proposed to the Constitution and By-Laws of the Mount Holly Fire Department. The major change would be that the Chief would be appointed by the City Manager, and there would be two Assistant Chiefs, one a volunteer fireman and one a paid fireman. Mayor Black asked if the Fire Department has asked that the Chief be appointed by the City Manager; Eddie Summerlin stated they did. Councilman Small asked Mr. Summerlin if there need to be any changes made to what the City Manager had presented. Mr. Summerlin said any change is supposed to be posted for 30 days before it is voted on, and they could make any needed changes during that time. City Manager Ponder stated he thought they had already been posted, but they felt there were some things in there they need to discuss, such as the required hours training. Councilman Small stated the Council has no say over the By-Laws of the Fire Department and it should not be before them. Councilman Jessen agreed that the Council should stay out of most of it, but since the City pays the workmen's compensation, and now that OSHA is in the picture, the City must be sure the regulations are met. Councilman Small **MOVED** to table this matter for 30 days, seconded by Councilman Harris. Mr. Summerlin said the Fire Department would like the Council to approve the appointment of the Chief and let them complete the process on their own. The question arose as to why the City Manager had prepared this proposal. Mr. Ponder said he met with the Fire Deparment several times over the last six months and he was under the impression they wanted him to prepare this; he said he believed he had incorporated all they had wanted and also complied with OSHA regulations. He further stated he had been informed this had to be in place by July 1; he said if the Fire Department wishes to handle the matter, he would not have a problem letting them. There was some discussion with Andy Putnam about possible changes as to required hours of training and about certification. Councilman Hope stated the Fire Department should be able to make the changes they want, but the Council should be informed because the City has a great liability. Councilman Jessen noted that the Council cannot have the City Manager appoint a Chief if the By-Laws have not been amended to provide for that to happen. City Manager Ponder said he would not be comfortable appointing the Chief, who would be responsible, yet would have no written authority; he wanted the By-Laws amended before he makes the appointment. The vote on the motion to table this matter for 30 days failed by a vote of two ayes and four nays (Jessen, Little, Hope, and Nichols). City Manager Ponder stated that OSHA requires that only one person be in charge at a fire; but currently they have two in charge, one a paid and one a volunteer fireman; OSHA will not allow this to continue without penalty. Mr. Summerlin said that in actuality there is only one man, Ray Massey, because the volunteers had voted him their Chief also. The Council asked the City Attorney for an opinion, and allowed him a few minutes to review the paperwork and talk in the hallway with the firemen.

Zoning Administrator Gary Roberts reviewed the proposed Sign Ordinance with the Council. Several changes had been made to take into consideration some of the complaints of the businessmen. He reviewed each change which mainly dealt with some existing signs being grandfathered and clarification of some definitions.

Councilman Jessen read a statement into the record: "It has been some time since any item before this Council has stirred as much debate as the issue of this sign ordinance. Never mind that the proposed ordinance is actually more lenient than the ordinance presently in place; the perception is, and I wish to underline the work "perception", that the Planning and Zoning Board and the City Council have an anti-business attitude.

"Although I don't agree with this perception I can understand how it could be, and I might futher add that it may be well deserved. I believe this percetion comes from two sources. On the one hand, the business citizens of this community have a narrow view of the intent of the ordinance. From their viewpoint they see only that whic has a direct affect on their specific business. There is nothing especially wrong with such a view but they must also understand the point of view of the planners who developed the ordinance. These people have spent many long hours studying this ordinance and how it relates to the overall vision of the entire community . . . not just the businesses.

"Secondly, and the part that may bring me criticism from my colleagues, is the fact that no one, either on teh Planning Board or the Council, has a true understanding of what it takes to make their living in a retail environment where advertising your product to the public is critical to survival. We may think we understand; we may have meetings to gain better understanding, but not having actually done it, we really don't know. The fact that this situation exists is not a fault . . . only a fact. And those who would consider it a fault need only to look to themselves for the blame. The men and women who serve this community do so either through appointment or through election and the fact that no one from the business community has ptu himself forward for these positions is not the fault of those presently serving. My purpose in all of this is not to place blame or create controversy. My purpose is to put some thought into the finalization of this ordinance. Because, like it or not, there will be a sign ordinance in Mt. Holly. We are a society of rules and laws. Without them you have anarchy and chaos. I think everyone would agree with that. So, it seems to me, the issue is not a question of "if there will be an ordiance, it is a question of what kind of ordinance will it be.

"Therefore, this Councilman has some specific items to address regarding the proposed ordinance before us. These items represent areas that have been brought to my attention on more than one occasion and which has created the most heated debates:

A. Existing signs that will become non-conforming with the passage of this ordinance. No one who does not presently have some sort of signage has argued the point with me to date. The biggest arguments are from those who have signs now which would be required to change under the new rules. I have viewed ourtown and my opinion is that it isn't so bad as regards to signs. Therefore, it si my position that signs that are presently in place should be grandfathered forever unless the existing sign is completely and totally damaged to the poitn of having to totally remove it, pole and all. Any future sign at that location would then have to comply with whatever regulations are in place at the time.

B. The fifteen foot height requirement is too low; signs out at the interstate would have a problem when the area is developed.

C. Flags, banners, and pennants. I have no personal problem with these items and would recommend that they be allowed.

D. There should be a provision for appropriate off-premises directional signs.

E. Changeable copy signs. I believe the intent of this section of the ordinance is to disallow the temporary, portable type signs from being mounted on a pole and termed permanent. I realize I'm stepping on some toes, but signs done in this way appear tao be just what they are and they are unattractive. If this is the intent of the rule, then say so, don't beat around the bush. To simply and categorically disallow changeable copy signs would, by definition, eliminate Hardees, McDonalds, Wendys, and any number of motel/hotel chanins, even churches. Many of these businesses, all of which I would welcome to our town, use changeable copy signs to one degree or another.

"We have a fine community that offers a great deal. It is my hope that all of our ordinances serve to make it better. But, above all else, what really makes a town a place where people want to live and work are its citizens, not the bricks and mortar. Remember that. These are only some of my thoughts."

Zoning Administrator Roberts stated that rather than not allowing the non-conforming signs which are damaged or destroyed to be replaced, a paragraph could be added that provides for replacement if it is more in compliance with the ordinance than the prior one. A man in the audience stated the City is not growing, and many things such as men's clothing cannot be bought here; he asked why a good sign should have to be torn down in 5-1/2 years. Mr. Roberts said the only ones that have to be removed in this proposed ordinance is the portable changeable signs. Mr. Springs said the future signs will be an improvement. Mayor Black said he recently attended the Chamber of Commerce meeting and said he is glad that the Council is finally getting some input. Councilman Hope stated that he is a business person and he acknowledged the City has not grown. He said he wants all the old signs grandfathered, and no regulations on flags or banners. Councilwoman Nichols said she believes the ordinance as written will turn away small business. Mayor Black agreed. Mr. Roberts said the Planning Commission recommended that this ordinance be approved with the changes he had cited earlier, but that if the Council wants to send it back to them, they asked that specific requests for changes be made. Mr. Dennis Dotson said it was hard for him to follow what changes had been proposed by Mr. Roberts earlier, and he would like to see it in writing so he could understand what changes have been made and how he will be affected. Councilman Hope **MOVED** to table this matter until the upcoming workshop, seconded by Councilman Little, with all in favor.

With regard to the Fire Department, City Attorney Michael stated that after meeting with their representatives, they would like the matter tabled and asked for a meeting to make changes in the proposed amended By-Laws. Mr. Michael said that in his opinion the City Manager cannot appoint a paid Chief until the amended By-Laws are adopted. Councilman Jessen **MOVED** that the consideration of By-Laws amendments for the Fire Department be tabled, seconded by Councilwoman Nichols, with all in favor.

City Manager Phil Ponder stated that he had advertised for sale the City property behind Woodland Park known as the old water intake property, and the only received sealed bid was held for 30 days; upon opening the past Friday, it was a bid fo $3,500.00 from Galen Cassada. He felt this to be an appropriate amount. City Attorney Michael said if the Council moves to sell to Cassada it should add to the motion that the sale is subject to Cassada rendering the old water intake site safe at his expense per specifications directed by the City's Public Works Director prior to closing. Councilman Hope **MOVED** that the bid from Galen Cassada for $3,500.00 be accepted with the provision as stated by the City Attorney, seconded by Councilman Little, with all in favor.

Galen Cassada requested approval of a subdivision plat and street name changes. Mr. Roberts stated that access is by means of Dogwood Annex as shown on a recorded plat for Woodland Park. The Planning Commission had recommended approval. Mr. Cassada has asked that the cul-de-sac shown remain a private easement. City Attorney Michael stated that the portion of the road that is shaded on the plat is the part he wants to be private, and in his opinion, the City probably does not want to take over and maintain that portion because of the railroad crossing involved, and it serves no great public purpose since there would only be two lots and it is a dead end street. Mr. Michael recommended that the Council allow the variance to keep it a private easement for the shaded portion and the cul-de-sac, and that a notation be added to the plat before recording stating that the shaded portion and the cul-de-sac is subject to maintenance by the Developer or its successor in title with no municipal maintenance or responsibility and that the City has no liability as to the railroad crossing. He further recommended that the old intake site be sold and the deed pass prior to this final plat being signed by the City or recorded. Thirdly, he recommended that the City and Cassada enter an agreement to be recorded with the plat indicating that the Developer agrees for himself and his successors in title that they will receive garbage service at the end of Dutchman Annex because the City should not go onto the private easement. Councilwoman Nichols **MOVED** that the variance be granted to allow the shaded portion and the cul-de-sac to be a private easement with the stipulation that the City will not be responsible for or maintain the private easement and has no liability for the railroad crossing, seconded by Councilwoman Harris, with all in favor. Councilman Hope **MOVED** that the final plat approval be granted effective upon compliance with the prior motion and with the notations being made as recommended by the City Attorney on the plat, upon the closing of the sale of the old water intake site, and upon execution of a separate agreement that the garbage collection shall be at the western end of the private driveway, seconded by Councilwoman Harris, with all in favor. Councilwoman Nichols **MOVED** that the name of the sections of roadway indicated on the Cassada plat both be changed to Dogwood Drive, seconded by Councilman Little and carried by unanimous vote.

Mr. Collins, Shooters Express, appeared to request that the pawn shop operation there be expanded to allow full pawing rather than guns only. City Manager Ponder stated he and the Police Chief have no problem with the request. Councilman Hope **MOVED** to grant the expansion of the Shooters Express license to allow pawning of all merchandise, which was seconded by Councilman Little with all in favor.

City Manager Ponder stated that the revisions have been made to the agreement with CEKA, Inc. regarding its industrial development for the old Kendrick brickyard site. Mr. Carlton Broome was present. Councilman Jessen **MOVED** to adopt the revised agreement and authorize its execution, seconded by Councilman Hope with all in favor.

The matter of employee health insurance coverage was discussed next. City Manager Ponder stated that last year the 50% increase was reduced by modifying our coverage, but this year there is another 35% increase, so he had obtained other quotes. He recommend that the City approve the PPO plan with Blue Cross Blue Shield, which will still have a 2% increase. It has more doctors enrolled in its network. He said he does not like to restrict the employees, but it is the only way to keep cost down. Mr. Hendrix from BCBS was present; he stated that last year the City had one employee who was in the hospital 122 days at a cost of over $164,000.00. He said 85% of all doctors in North Carolina are enrolled in the BCBS PPO network. If the employee chooses to use a doctor not in the network, the insurance will not pay as much of the bill. Councilman Little **MOVED** to approve the BCBS PPO for City employees health insurance coverage, seconded by Councilman Jessen with al in favor.

City Manager Ponder said the bids were opened for the water bond projects: 2 water tanks and the N. C. 273 water line. The low bid for the 2 water tanks was CBI NA-CON, Inc. at $1,242,000, and the low bid for the water lines was Gilbert Engineering at $189,130. The second lowest bid for the water tanks was from Crom Corporation who bid concrete tanks which have a longer life and less maintenance than the steel tanks at $1,314,000. Both companies had representatives present. The City has a ground storage concrete tank; but there are only one or two elevated concrete tanks in existence. Councilman Hope **MOVED** that Contract 1 for two steel elevated water tanks be awarded to CBI NA-CON, Inc. for $1,242,000, seconded by Councilman Small, with all in favor. Councilman Jessen **MOVED** that Contract 2 for water lines at N. C. 273 be awarded to Gilbert Engineering for $189,130, seconded by Councilwoman Harris with all in favor.

Bill Dustin, COG, reviewed the proposed Land Development Plan. He said the Committee and COG have spent about one and a half years preparing this Plan which has been approved by the Planning Commission. He went over the scope of the Plan and emphasized that it is a plan and not an ordinance, that it recommends policy to be followed by the Council and Planning Commission, and that it should be used as a guide, but it is not etched in stone. There is no need for a public hearing to adopt it or make changes in it. He noted the decision to plan for "business nodes" at busy intersections rather than strips of business along every main road. The Plan calls for multi-family to be spread out, not concentrated in only one section. Councilwoman Nichols said she was not inside the City when the prior Plan was adopted in 1977, and she does not know if it was followed or not, but she felt the City should either adopt it and stick to it, or drop it now. Mayor Black stated he believes it is necessary.

City Manager Ponder asked that the matter of purchasing policies be handled after a workshop session and after discussion with Trent Wilson.

Public Works Director Eddie Nichols said the Sanitation truck bids were duly opened for 25 yard rear loading compactors. The low bid was a Ford LTS 8000 Model 325, but the specs called for a Cummins, and that bid had 30 exceptions noted on it. He recommended the second lowest bid for the Freightliner truck because it more closely meets the specs and has double galvinized construction. Councilman Jessen **MOVED** to award the bid to Quality Equipment in the amount of $75,498.00, seconded by Councilwoman Harris, with all in favor.

The Housing Authority asked for adoption of a resolution to comply with HUD regulations. Councilwoman Nichols **MOVED** to adopt Resolution #6-14-93(a) supporting home ownership, seconded by Councilman Jessen, with all in favor. Information will be provided to the residents as outlined by HUD.

The floor was opened for Complaints or Petitions not on the agenda. Mr. Merlin Brown was recognized. He asked Gary Roberts who had invited Mr. Davenport to speak to the Council at the last meeting; Mayor Black said he had. Mr. Brown asked if he was paid; he was. He said Jack Ferrell was not given the same chance and there is a double standard. He further stated his objection to a letter by a Councilman in the newspaper which called him a liar. He said he is not against the doctor. He said he never sees Mr. Jessen at any Planning Board meetings. He continued that as far as the ETJ goes, the Council showed what they think of them by what they did, but he believes human rights should be above any stupid law. He stated that if he was 10 years younger he would deal with the situation in a different way.

Mrs. Hazel Michael said she is concerned about the guardrail on Rankin Avenue which she has mentioned before. She stated a small car, a Miata, almost hit her as she came across, because it could not see her for the rail. She asked that they try to get the end of the rail changed so it curves and dips down so it gradually goes down to the ground. Mayor Black said this matter was taken up before with the State and they looked at it and said little cars will be blocked becaused of bridge itself, and would not change it.

Mr. David Berg asked the Mayor to report about what he learned about the noise ordinance in Salisbury.

Mr. Ralph Michael said the Board of Adjustments had another illegal meeting last Monday, that they had a public hearing and did not swear in any witnesses and did not open the matter for public comment.

Tanya Joyner and Brian Richardson appeared before the Council to request a privilege license for a street stand. They propose to pull in on trailer to a couple of sites ice cream and shaved ice stands. City Manager Ponder said he recommends the Council get written letters from the property owners allowing them to do business on their property. Mr. Roberts said they should meet the setback requirements and site distance regulations as well. Councilman Hope asked if this would be an accessory building. Mr. Roberts said both the sites are in business zones so that would not be a problem. Councilwoman Nichols **MOVED** to grant the stret stand permit to Tanya Joyner and Brian Richardson subject to their meeting the setback, parking and site distance requirements. Councilman Jessen seconded the motion and it carried unanimously.

Mayor Black said there has been a request to fly flags for the Abernathy brothers on July 3, 4, and 5, in front of the Police Department building. The Council concurred. The flags were donated to the City for all veterans who have lost their lives.

Mayor Black said the City Attorney looked at the Salisbury noise ordinance and said ours is better than theirs already, but the question is whether or not it can be enforced. The only way to find out is to charge the offender and to go to Court. The Council asked that the Chief be instructed to enforce our noise ordinance.

Councilman Hope gave an update on the purchase of the Police Department building from Duke Power Company. The preliminary sketch is ready and renovations can begin soon. City Attorney Michael said that based on the Council's statement he wrote a letter to Duke Power to remove the contingency for an environmental study and we are proceeding to closing.

Councilwoman Harris asked if anyone on Council objects to her proposal to have a City employee picnic at Tuckaseege Park, and to dedicate the park then. They concurred. She expects it to be in July, and there would also be softball games.

Merlin Brown asked what Mr. Davenport was paid; Mayor Black said he did not know. Mr. Brown stated he knew it to be a figure in the thousands of dollars.

The Council took a five minute recess.

The Council went into executive session for attorney-client matters upon **MOTION** by Councilman Hope, seconded by Councilwoman Nichols, with all in favor.

Councilwoman Nichols **MOVED** to go out of executive session, seconded by Councilwoman Harris with all in favor.

Councilman Jessen **MOVED** to approve in principle, subject to receipt of a contract in a form and substance acceptable to Council, the acceptance by the City of pretreated ground wastewater from the Jadco-Hughes Steering Committee site on Cason Street into our wastewater treatment facility, for an initial term of 30 years and for the compensations set forth in alternatives #1 or #2 as presented by the City Attorney. This motion was seconded by Councilman Small with all in favor.

City Manager Ponder stated that Mr. Brown's implication that Mr.

Davenport was paid $4,000 for his statements at the Council meeting about spot zoning is incorrect; that the City paid him for drafting the proposed watershed regulation ordinance, and he was paid nothing for his comments regarding zoning at that meeting.

The meeting was adjourned upon **MOTION** by Councilman Small seconded by Councilwoman Harris, with all in favor.

City Clerk

Mayor

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