Regular Meeting
City Council
June 13, 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. Cameron P. Keyser.

Councilman Hope **MOVED** to approve the minutes of May 9 and 23, 1994, with the following correction: last page, paragraph 5, change to "Mayor Pro-Tem Jessen", seconded by Councilman Helms, and carried with six ayes.

The regular meeting was recessed and a public hearing called to order by Mayor Black, for continuation of consideration of an amendment or repeal of Zoning Ordinance Section 20-104. Mrs. Lynn Dunn stated her support of the recommendations which have now been made by the Planning Commission; she also asked if the reference to a percentage of damage refers to money or the size. Mr. Roberts stated that refers to the cost of reproducing a damaged fence. Mr. David Anthony, Planning Commission member, stated his belief that this will be hard to regulate unless a permit is required, even if it has no cost. Mr. Roberts stated that the recommendation includes a "grandfather" of existing fences. The current height limit is five feet. The proposal has four feet height limit in front yards, six feet for side yards, and eight feet in rear yeards. Councilman Hope did not approve of the limits and suggested the height be regulated in proportion to the size of the lot; i.e., larger lots, higher fence limits. Mayor Black asked if this will affect businesses. Mr. Roberts said this only applies to residential, each business district has its own fence requirements. Mr. Wayne Beatty said he would like to see a higher fence allowed in the front yard if it is set back further from the right-of-way so there would be drive visibility. There were no further comments, and the public hearing was adjourned. The regular meeting resumed. Councilman Jessen stated he favors what is being done but agrees with Mr. Hope that different heights should be in each district, and he thought permits would be a good idea. Councilman Hope **MOVED** to table the matter for City Council review until no later than the next regular meeting; motion seconded by Cuoncilman Jessen, with all in favor.

The regular meeting was recessed and a second public hearing called to order to consider a conditional use permit request for a 7-unit apartment complex on North Main Street by Mr. Welch under Section 86.3. Mr. Roberts reported that the Planning Commission has recommended the vegetative buffer on the front setback and Mr. Welch has agreed. Mr. Welch and his attorney, Jim Stancil, were present. There were no other comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** to approve the revised site plan for the Welch project in accordance with the Planning Commission's recommendations, seconded by Councilman Helms, with all in favor.

The regular meeting was recessed and a third public hearing called to order for consideration of the 208-apartment units by Triangle Real Estate on South Main Street. The Planning Commission has recommended approval of the revised site plan. Mr. Roberts has reviewed the plan and reported that it meets our code. Mr. Nichols has reviewed the site plan and has only a few minor changes he will request from the civil engineer. City Manager Ponder noted the new plans have a couple of 8-inch sewer lines to turn over to the City which were not on the previous plan, which he does not recomend we approve. Mr. Watson, R & W Engineering, stated if the City wishes they will change that to six-inch lines and retain ownership and maintenance. Councilman Helms was concerned about the last set of buildings being in the watershed and the parking lot encroaching on Duke Power right-of-way. Mr. Watson stated they are aware the building is in the watershed but have met the code requirement, and they will adjust the parking if Duke Power objects. Mr. David Anthony wanted to be sure all the stated requirements of the Planning Commission have been met on the revised plan. Mr. Roberts stated that the changes have been made to reflect the recommendation at the June 6, 1994, meeting. Mr. Steve Howard, adjoining property owner, said the buffer that was cut down needs to be replaced, and he wants them to build the original plan because the buildings were not so close to him. There were no further comments. The public hearing was adjourned and the regular meeting resumed. City Attorney Michael inquired as to why 40 feet road right-of-way is being required in the proposed resolution in paragraph five across the whole width of the property in stead of just the deceleration lane; Mr. Roberts said this was requested by DOT for future widening of Highway 273. Councilman Small **MOVED** to approve Resolution #6-13-94(a) as submitted, approving a 208 unit apartment complex on South Main Street, seconded by Councilman Duke. City Attorney Michael asked if they wish to clarify ownership of the sewer lines. It was suggested that paragraph 3 could be amended so that Triangle retains ownership and maintenance. Triangle Real Estate's attorney, Doug Arthurs, stated an agreement with the Fullers has been reached and two deeds to swap property have been prepared but not delivered yet and he asked for a delay in the vote until this was done. Mr. Jim Fuller stated he wants the land he is getting from Triangle on South Main to be free and clear with no extra right-of-way on it. An amendment to paragraph five was recommended to make that adjustment. Councilmen Small and Duke amended the motion to include the two amendments made. Action on this matter was delayed until later in the meeting while the Fullers and Triangle representatives went in the hall to complete the agreements and transfer deeds.

Mayor Black again recessed the meeting and called to order a public hearing for consideration of rezoning a vacant one acre lot on Pearl Beatty Road from R-A to B-3 requested by Cebron Hester. The Planning Commission has recommended approval. The anticipated use of the property is car sales. The front section of his property is already B-3. There were no further comments. The public hearing was adjourned and the regular meeting resumed. Councilman Hope **MOVED** to approve the rezoning request by Mr. Hester for a one acre lot on Pearl Beatty Road from R-A to B-3, seconded by Councilman Duke, with all in favor.

After recessing the regular meeting, a public hearing was called to order for consideration of the City budget for fiscal year 1994/1995. Mr. Henry Massey and others on the Recreation Commission thanked the Council for funding the concession and restroom facility at Tuckaseege Park. They presented a list of other needs and requested $13,000 more for capital projects in next year's budget. The Council will consider this when it reviews the budget with the City Manager. There were no further comments and the public hearing was adjourned. The regular meeting resumed and the Council set a workshop meeting fro June 20, 1994, at 7:00 P.M.

The Fullers and the Triangle Real Estate representatives returned to Council and reported they have completed the agreements and exchange of deeds for property which would be recorded the next day. The call for the vote adopted Resolution #6-13-94(a) by a vote of six ayes and zero nays. (copy attached)

The Council next considered the matter of the West Side Corrective Rezoning Target Area. Mr. Roberts reported that this matter which had a public hearing previously was tabled for action for more review, and was brought back for action at the Council's request. The first target area consists of 214 properties as identified on the Corrective Rezoning Map (See Exhibit Book for copy of map). Councilman Small **MOVED** that the West Side Target Area as shown on the Corrective Rezoning Map be rezoned from R-8MF to R-8SF, except that three properties identified as Tax Parcels #14-93-7, -8, and -9 be omitted, seconded by Councilman Jessen. Councilman Hope noted that the notice to adjoining property owners for this matter was given in October of 1992, and he stated his concern about the long time between the notice and this action. He cited an objection by Mr. Garrison to having his property rezoned. Mr. Small said Mr. Garrison wants his property on Globe Street to be B-3 but that is in a residential section. Mr. Hope said Mr. Garrison, who was present, has asked that his property remain multi-family. The call for the vote carried the motion with a vote of four ayes and two nays (Helms and Hope).

The Council discussed the proposed implementation schedule for continuing the corrective rezonings. Councilman Jessen **MOVED** that the schedule be adopted as presented, with all notices being given and all hearings held as defined therein, seconded by Councilman Hope, with all in favor. (copy attached)

The Council considered alternate names which have been put forth for three streets which the City has recently taken over for maintenance and which have names identical to other existing streets. Councilman Small **MOVED** to name former Smith Street, between Tomberlin & Belton Avenues, "McLean Street", after Frank McLean, seconded by Councilman Duke, with all in favor. Councilman Small **MOVED** to name the former Cherry Street Extension "Rocky Point", seconded by Councilman Duke, with all in favor. Councilman Small **MOVED** to name the former Hilltop Street after Melvin Fraley, "Melvin Street", seconded by Councilman Duke, with all in favor.

The proposed agreement with the Mount Holly Optimist Club for handling concessions at Tuckaseege Park was reviewed by the Council. Councilman Jessen **MOVED** to approve and authorize execution of the agreement as presented, seconded by Councilman Duke, with all in favor.

The revised Grievance Procedure for City public housing was considered next. City Attorney Michael said he had no corrections and stated that the City Manager is designated to hear grievances. This document is required by HUD. Councilman Duke **MOVED** to adopt Resolution #6-13-94(b) as presented approving the grievance procedure (copy attached). This motion was seconded by Councilman Hope, with all in favor. Councilman Hope **MOVED** to adopt Resolution #6-13-94(c) approving an addendum to the Lease agreements for the public housing units, seconded by Councilman Jessen, with all in favor. (copy attached)

Mr. Joe McClellan and other from Deerfield Subdivision requested the Council allow them to build a subdivision name sign in the median at the entrance to the subdivision. They presented a sketch showing their proposed sign which is redwood, four and one-half feet high, and 55 feet back from Hickory Grove Road, and will sit between the trees already there. He said the cost and maintenance of the sign will be by the subdivision residents. Mr. Roberts said our current ordinance does not allow this, but it would be allowed in the proposed ordinance to be adopted in some form no later than September. City Attorney Michael asked if the City might allow an encroachment in the right-of-way similar to how the City does on Duke Power or DOT; Mr. Roberts said it can. Mr. Michael asked if the sign would conflict with any utilities; Mr. Nichols said it will not. Mr. Michael suggested the adjoining property owners and the developer be contacted to be sure they do not object. Councilman Duke **MOVED** to allow an enroachment by the erection of a subdivision name sign as presented at no cost to the City subject to obtaining a letter of approval from the adjoining property owners and the developer; motion seconded by Councilman Helms, with all in favor.

Representatives from Shooters Express appeared before Council. They have been setting up some expansion and a new pawn shop at their store near I-85. They took down an old sign to repaint it, and have been told they have to remove it and cannot replace.

There was also some dispute about the billboard they have. They asked for consideration of the business they bring to Mt. Holly, the $505 privilege license they pay each year. They said it is only reasonable they be allowed to improve a sign that is in disrepair and put up signs for the new business. The proposed sign ordinance would allow what they have proposed, but it is not permitted in the existing code for non-conforming signs. Councilman Harris urged the Council to take action on the sign ordinance immediately because she felt it is unfair to ask our staff to try to enforce what is on the books that all of us have agreed needs to be changed. The Council concurred to have City staff and City Attorney meet with Shooters Express to attempt to settle this problem.

County Fire Marshall Jim Pharr presented a proposed agreement with the County for fire inspections required under a new State law. Mr. Ponder stated that the City does not have the manpower to comply with the law. A list of sites was provided, and the Council inquired as to why the City would have to pay for those situated outside the City limits. Mr. Pharr said he was told the City would pay for all sites in its jurisdiction. The Council asked that this be checked out and brought back to it.

As to nominations for appointment of a Planning Commission member, Councilman Duke nominated Lynn Dunn for outside alternate, Councilwoman Harris nominated Lloyd Gann and Wayne Beatty for outside alternate. Councilman Duke moved that the nominations be closed which was approved. Councilman Duke nominated Robbie Kayton, and Councilman Hope nominated Jim Linsey for inside alternate. The nominations were duly closed. The Council took no action.

Attorney Vickie Whitley spoke to the Council on behalf of residents in Cottonwood Acres Subdivision. She stated that one lot was bought by a man who later sold part of the lot and is attempting to build a road on the remaining 60 feet of the lot to provide access to a 27 acre tract he owns behind it. The residents have filed a lawsuit based on the restrictive covenants against the man. They requested the City revoke its earlier consent for the road to be built on the basis of the consent being improperly granted. She stated that the man has access to the acreage by means of his property touching Old Highway 27, so he does not need this road for access. She said that the variance allowed in the past by DOT for the requirement of 125 feet distance between two side streets was granted on misinformation, namely, the lot was on a private not public maintenance road, the diagram provided was faulty in that the buffer and sight corners are on other people's property, not the man's, and that DOT now states that they will not take over a road for maintenance that is coming off a private road. She stated that the City ordinance does not allow the subdividing of a lot in that district as was done on Lot 7 in question. Several of the residents were recognized in attendance and supported this request. The Council took the matter under advisement.

The Council took a five minute recess.

Councilman Jessen **MOVED** to approve Resolution #6-13-94(d) to write off uncollectable accounts at Rollins Square, and Resolution #6-13-94(e) to write off uncollectable acconts at Holly, as presented, seconded by Councilman Small, with all in favor (copies attached).

Councilman Small **MOVED** to approve Change Order #5 to the contract with Trans-State Construction Company for water and sewer improvements in the sum of $8,300.00 for removal of a fuel storage tank and pump stations at Deertrack and Morris Street as presented, seconded by Councilman Duke, with all in favor. The new total contract price is $1,528,513.50.

Councilman Duke **MOVED** that the City take over for maintenance the two following: 1. East Central Avenue, 365 feet to the CSX railroad, and 2. Caldwell Drive (off 273), seconded by Councilman Helms, with all in favor.

A request for hearing on a rezoning of two lots on Pearl Beatty Road by Message of Love, Inc. and F. J. Sneed was considered. The Planning Commissin recommending not holding the hearing. Mr. Anthony stated this was because there was no site plan submitted, and it was suggested the church could deed her some footage off its land so her lot would be sufficient size. Councilman Hope said the Council has always allowed public hearings, and so **MOVED** that a public hearing be held on the matter after due notice at the regular meeting on July 11, seconded by Councilwoman Harris, with all in favor.

A request by the Planning Commission for a public hearing to consider amending the zoning ordinance to standardize roof pitch requirements on all dwellings was approved and set for July 11 regular meeting, upon **MOTION** by Councilman Hope, seconded by Councilwoman Harris, with all in favor.

Pursuant to recommendation by the Planning Commission and based upon the new Land Development Plan, Councilman Jessen **MOVED** to set a public hearing for the July 11 regular meeting to consider amending the subdivision regulations as to recreational requirements, seconded by Councilman Hope, with all in favor.

Agenda Item 11 as to surplus items for auction was held over until the next meeting.

City Manager Ponder presented four budget amendments, approved as submitted upon **MOTION** by Councilman Jessen, seconded by Councilman Duke, with all in favor. (copies attached)

Tax releases for 1993 through May 31, 1994, in the amount of $588.80 were approved upon **MOTION** by Councilman Duke, seconded by Councilman Small, with all in favor.

After discussion, Resolution #6-13-94(f) was approved advocating the establishment of a Park Fund by the State (copy attached), upon **MOTION** by Councilman Jessen, seconded by Councilwoman Harris, with all in favor.

City Manager Ponder reported that the public housing renovation bids came in high and he will rebid.

The floor was opened to complaints or petitions not on the agenda. Leigh Little, 216 E. Catawba Avenue, asked that a street light be put up on the street near her house, due to her having children and that she has seen drug deals, people smoking crack, and finding needles in her driveway. She said she will cooperate with the police and let them put up a video in her house to help them get rid of this activity. Kelly Wood, 219 E. Catawba said the apartments next to her owned by the Dimmers were fine but now there are some bad tenants there who are throwing some terrible stuff over the fence onto her property. They also want the police to enforce the speed limits. Councilwoman Harris **MOVED** that the City have a street light installed, seconded by Councilman Hope, with all in favor.

Mr. Jerry Wilson requested the City pave Church Street off Tuckaseege. He said the City refused in the past on the basis that it is too narrow, but he stated that there are a lot of narrow streets in Mount Holly, so he asked that it be paved anyway.

Mayor Black stated he has prepared a letter to send to the Governor asking for help in keeping the man who killed a woman in Mount Holly in prison. The man has gotten an appeals court to throw out his conviction on the basis that they did not prove at the trial whether she died in North Carolina or South Carolina. The Council concurred.

Councilman Jessen said he has had inquiries about when our gym is open. Mr. Ponder said we have had a staffing problem which has prevented it from being open all day.

Councilman Jessen reported he has had two different citizens commend the City employee John Hope and his crew.

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

The Council returned to regular session and adjourned with no further action, upon motion by Councilman Duke, seconded by Councilwoman Harris, with all in favor.

Phillip L. Ponder, Jr. — City Clerk

Charles B. Black Jr. — Mayor

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