Regular Meeting
City Council
June 12, 1995

The regular meeting was called to order by Mayor Pro-Tem Bob Jessen at 7:30 P. M. Those present were Councilwoman Phyllis Harris, Councilmen Michael Helms, R. L. Duke, and Jim Hope, as well as City Manager Phil Ponder, City Attorney Kemp Michael, Zoning Administrator Danny Jackson, Planning Consultant Judi Simac, and a Police Department representative. Both Mayor Black and Councilman Small were absent due to illness.

The invocation was led by Rev. Cameron Keyser.

Mayor Pro-Tem Bob Jessen stated that the Council is kept advised all month by way of memo from the City Manager, but he wanted to publicly express congratulations to City employee Terry E. Thomas for obtaining his Grade B certificate from the State of North Carolina.

Councilman Helms **MOVED** to approve the minutes of May 8, 1995 as written; motion seconded by Councilman Duke, with all present in favor.

The regular meeting was recessed by Mayor Pro-Tem Jessen and a public hearing called to order for consideration of the fiscal year 1995/1996 municipal budget. City Manager Ponder stated that while the total is given as $10.6 million, it is actually $9.63 million, with the difference being caused by transfer items that are counted twice because of the statutory requirement for budgeting by funds, the majority of which in our case are related to the bond project funds. Mayor Pro-Tem Jessen noted that the tax rate recommended is the same as last year at 45¢ per $100.00 valuation. Mr. Ponder stated there were three changes: the $10,000 authorized for lighting the ballfield at Costner Field; items that were authorized in this year's budget but will not be completed before the end of this fiscal year; and a transfer of the bond projects that are complete to Capital Reserve, Sewer Fund (as instructed by the auditor). There were no further comments. Councilman Hope **MOVED** to continue the public hearing until the June 19th budget workshop at 7:00 P.M., seconded by Councilman Helms, with all present in favor.

The next public hearing was called to order to consider closing certain unopened streets near the intersection of West Catawba Avenue and Rankin Avenue. City Attorney Michael stated that the Second Baptist Church's petition to close was in order, and the recorded plat (1923) shows streets on the property identified thereon as Scott, Central and Tuckaseege, which are dedicated public right-of-ways by law. He stated that a question has arisen with regard to the future fee title of the streets if closed; the law says title vests to the center of the street to the owner adjoining each side. He reported that he was requested to inquire from Duke Power Company, the other adjoining property owner, as to whether or not it would quitclaim its interest in the street if closed to the church. The representative for Duke Power Company in this matter, Keith Featherstone, has taken the information and map, but no decision has been received from the company. The church requests the Council to take action on the portions of the streets identified on the map in dark color, but delay action on the portion of the streets which are identified with hash marks. Mr. Michael advised the Council that the objective of the Council is to determine if closing the streets would deny access or cause any other disservice to the citizens. From the map of the area, he reported no one would be denied access and there would be no known disservice to the public. He emphasized that this public hearing is still for consideration of closing all the streets as identified in the petition, and the request is only that action be delayed on a portion of the streets. Mr. Everett Johnson was recognized, and stated he is in favor of closing the Scott Street shown in the petition, as long as they don't close the Scott Street where they live; he said the description had the wrong direction in it. Mr. Michael said that may be so but it specifically refers to the unopened streets as shown on Plat Book 1, Page 187, in the Gaston County Registry, which would differentiate it from the other Scott Street. There were no further comments. The public hearing was adjourned and the regular meeting resumed. The City Attorney had prepared a proposed resolution to close certain portions of Scott and Tuckaseege, reserving City right-of-ways for existing utilities. Councilman Hope **MOVED** to approve Resolution #6-12-95(a) as presented, seconded by Councilman Duke, with all present in favor. (copy attached) Councilman Hope **MOVED** to table action on the remainder of the streets identified in the petition until a later date, seconded by Councilman Duke, with all present in favor.

City Manager Ponder stated he sent to Mr. Pace by facsimile a copy of the proposed lease from the City, and Mr. Pace had asked for a delay in action for his attorney to review it. City Attorney Michael said the lease would be for 1.89 acres rented on a year-to-year basis, with provision for either party to terminate, at $1200/year with possible increases. The company would be allowed to erect an office building and install a septic and water system and a fence; and may store metal products and load trucks. The company would not be allowed to clear more than 1/2 the trees, no hazardous materials may be used or stored, zoning must be complied with, the setback from the Legion Road right-of-way would be 15 feet, and the company must install proper drainage to the City's specifications. The City may terminate after default if not solved with five days' notice. At termination, the City owns the water and sewer system, the company removes the rest of the improvements; if not removed, the City may own them or have them removed and bill the company. The company must pay for insurance of at least $300,000, and also place a $10,000 cash bond with the City to insure performance. Mr. Pace would personally guarantee the company's performance of the contract. Mayor Pro-Tem Jessen did not agree with the requirement of a personal guarantee. Councilman Hope stated he did not approve leasing the property, preferring to either sell it or keep it clear. Councilman Helms did not approve of selling the property, suggesting that it be used for a new City garage in the future, and also because of the risk in having a company there that deals with metal, paint, rust, and could cause an environmental problem. City Manager Ponder stated the previous Council made some commitment to help him make peace in that neighborhood, but he had brought it to this Council due to the long lapse in time before Mr. Pace provided the required survey. Mayor Pro-Tem Jessen **MOVED** to table this matter until the July regular meeting, seconded by Councilwoman Harris, and carried with three ayes and two nays (Helms and Hope).

Bids for the sludge handling facilities were considered next. John McLaughlin from W. K. Dickson engineers was present. The bids were all high, even after adjustments were made and alternatives were considered. Some cuts were considered but rejected because the need is in the near future. Mr. McLaughlin stated they reviewed the proposals in the light of the proposed enlargement of the sewer plant and it is compatible for 10 to 15 years or more. He was of the opinion that other methods will develop in the future that are not available presently. He provided an explanation of the need for sludge handling facilities for the benefit of the audience as referring to treatment of bio-solids at an extended aeration plant with aerobic digestion. It is put in tanks, mixed with air, and broken down by bacteria. A certain amount of time and temperature must occur before the liquid can be land applied. Councilman Helms had heard that some new regulations are not going to be as strict and wondered if that will affect Mt. Holly. Mr. McLaughlin said it is possible that EPA 503 will be a more practical approach. Mr. Ponder noted that the sewer plant improvements will cost between $6 and $10 million depending on the final bill which passes legislation. Mr. Ponder asked for information on the low bidder. Mr. McLaughlin had worked with them indirectly before, they have worked in Lincoln County. The proposal has been designed with expansion in mind and would not have to be moved or demolished. Mr. Ponder stated he saw no alternative to the City's being required to do this project and there is no indication the market will turn around costwise. Councilman Helms was concerned that they not do too little and have to pay for short-sightedness. Councilman Jessen **MOVED** to table action on this matter until the June 19 special meeting, seconded by Councilman Hope, with all present in favor.

Mr. Ponder reported he has made adjustments to the agreement for operation of concessions by the Optimist Club at the Tuckaseege Park which the club now finds acceptable, and presented the same to the Council. Councilman Duke **MOVED** to approve the agreement between the City and the Optimist Club for concessions at Tuckaseege Park as presented, seconded by Councilman Helms, with all present in favor.

Mr. Helt presented the bids for renovation of City Hall. City Manager Ponder stated the bids were close to estimate, and requested the Council choose among the options presented, with the exception of the handicap door which he did not consider an option. Councilman Hope asked about the term; Mr. Helt believed it would be 120 days. Mr. Hope inquired about Southern Constructors. Mr. Helt had not worked with them but had checked the references. The president of the company is Richard Skeff from Mooresville. Councilman Hope was in favor of all three alternates, but he requested to see the references, to be included in the negotiation with the low bidder, and for the contract to be no longer than 120 days. The Council delayed action on this matter until the June 19th special meeting.

A delegation from the Carolina Crown Drum and Bugle Corps appeared before the Council requesting sponsorship by the City, and specifically looking for a site to use as a storage facility and for rehearsals. The Corps is a non-profit organization which has about a 100 member marching band of youth mostly from 9 counties around Charlotte. Its budget is about $260,000 this year. The Corps will appear on Nightbeat on August 2. Councilwoman Harris stated that she and Mayor Black are checking on possible places for them to use.

Judi Simac reported that the Planning Commission recommended approval of Phase I of First Colony Group's subdivision subject to some street design being reviewed by the City's engineer, W. K. Dickson & Co. Mr. McLaughlin stated the firm has reviewed the street alignment, and found the "vertical K-value" to be minimal requiring a restricted speed limit of 15 mph and street lights at the low spots, and also recommended rollover intersections. Mr. Coates, First Colony Group, stated his company has agreed to do as the engineer has asked. Mr. Coates reported there is a building on one of the unopened streets at Pine & Dunn which his company was supposed to open when developing the property. City Manager Ponder said he would have the City surveyor check on that. Mr. Coates stated the City water line existing, a 10-inch, runs from the southern end to the northern end of the property, and they want the City to abandon the portions of the easement where this line will be altered and closed off. Thirdly, he inquired as to who orders the street lights and would they be installed during construction of the streets or after completion; Mr. Ponder said the City would request Duke Power to install them as each phase is constructed, but he referred the remainder of the question to Public Works Director Nichols. Councilman Hope **MOVED** to accept the recommendation of the Planning Commission and approve the preliminary plat for Phase I of the subdivision for First Colony Group subject to the conditions required by the engineer being resolved before final plat approval. Councilman Jessen seconded this motion and it carried with all present in favor.

A change order to the Mount Holly-Stanley Water System Interconnect Project was presented by W. K. Dickson, to provide a reroute of the 12" water line under the existing ditch adjacent to the Booster Pump Station site, to change the beam sizes for the interior bridge crane at the Booster Pump Station, and to add one 12" M.J. butterfly valve in the main line near the meter vault site. Councilman Hope asked what portion of this change the engineers were accepting responsibility for; Mr. McLaughlin said hopefully none. Councilman Hope **MOVED** to approve Change Order #1 to the said contract with Hickory Construction Company for an additional sum of $4,825.00, making the new total contract price $285,225.00, seconded by Councilman Helms, with all present in favor.

A proposal for amending the burning regulations within the City limits was considered, which would allow burning of debris by permit when clearing land for subdivisions. City Manager Ponder said this was requested by Mr. Shugart and has come up before with Mr. Broome's subdivision, and although the Fire Chief did not like it, he had made it as tough as possible, and stated he believes the new EPA regulations will make it a moot point anyway. City Attorney Michael asked if the permit will be for all the property owned at the site or just a portion of it, and will it have a set time limit. He suggested it specify they can only burn what is cleared off that land under permit. Councilman Jessen **MOVED** to adopt Sections 7-21 and 7-22 as presented with the three changes suggested by the City Attorney, seconded by Councilman Helms, with all present in favor. (copy attached)

The auditor's contract for services with the City as presented was approved for a sum not to exceed $17,200, upon **MOTION** by Councilman Jessen, seconded by Councilman Duke, with all present in favor.

City Manager Ponder stated there were no losses at Holly Hills apartments this six months, but there were at Rollins Square. Councilman Jessen **MOVED** to approve Resolution #6-12-95(b) to write-off uncollectable accounts in the sum of $867.00 for bookkeeping purposes, but to turn them over for collection, seconded by Councilman Helms, with all present in favor. (copy attached)

At the request of N. C. Department of Transportation, speed limits were re-adopted for N. C. Highway 273 upon **MOTION** by Councilman Hope, seconded by Councilman Duke, with all present in favor, identified as Resolution #6-12-95(c). (copy attached)

City Manager Ponder stated that repair to unit #65 at Holly Hills was begun by the low bidder but the contractor left after only completing one-third of the work and has refused to return. He presented a proposed contract with Piedmont Fire Restoration and Construction Company, the second lowest bidder, to complete the repairs for the sum of $24,914.20. Councilman Jessen **MOVED** to approve the contract as presented, seconded by Councilman Hope, with all present in favor. With concurrence of the Council, Councilman Hope directed the City Attorney to take whatever action is necessary against the first contractor for breach of contract.

Five budget amendments were approved as presented by the City Manager, upon **MOTION** by Councilman Hope, seconded by Councilman

Duke, with all present in favor. (copies attached)

Tax releases as presented by the Tax Collector in the sum of $25.53 were approved upon **MOTION** by Mayor Pro-Tem Jessen, seconded by Councilman Helms, with four ayes and zero nays.

Councilman Hope **MOVED** to set a public hearing for the July 10 regular meeting to consider installing a new zoning district and rezone a current district for the proposed Autumn Woods Subdivision, seconded by Councilman Duke, with all present in favor.

A proposed map designating traffic control devices within the City limits was delivered to the Council for review. City Manager Ponder said this will aid in enforcement of the traffic regulations. It is still being proofed. Mayor Pro-Tem Jessen **MOVED** to table action until the July 10 regular meeting, seconded by Councilwoman Harris, with all present in favor.

The floor was opened to complaints or petitions not on the agenda. Mr. Phil Chan, owner of the appliance repair business on Main Street, was recognized. He complained that he has installed a new sign believing he had complied with our rules, and now he has been told he must change it. He stated he went to see Mr. Jackson and was issued a permit after showing him what he was going to do. After he had it put up, he got a letter that it is not in compliance. He said Mr. Ponder told him he had to get a variance, so he paid the fee and then was turned down. He has spent over $4,000 and it is a nice sign and is like Nationwide and Charlie's Drug Store signs, and they should look at the image it presents. He said he would have done what he had been told but he was not told until too late. Mr. Ponder stated that there is presently a disagreement as to whether or not he showed Danny a drawing. Mayor Pro-Tem Jessen said the sign does not meet the old ordinance either, and the Council does not have the power to overrule variance decisions of the Board of Adjustments; he asked Mr. Chan if it is possible to modify the sign so it will comply. Mr. Chan said he has spent too much money already and will move if the City does not want to support businessmen. The Council took no action.

A request by John Jessen for a lemonade stand for his son was considered. Mr. Ponder had a letter from Mr. Jessen and permission from the property owner, and the fee of $15.00. Councilman Duke **MOVED** to approve the privilege license, seconded by Councilman Helms, and carried with four ayes and zero nays.

Councilman Helms had a complaint from Mr. Fuller on South Main Street that people are going down the City's easement next to his house. City Manager Ponder suggested the City pay for installation and material for two poles and a chain to block it, but that they be allowed to pay for the difference if they want a more elaborate gate. The Council concurred with his suggestion.

There being no further business before the Council, the meeting was adjourned, upon motion by Councilman Duke, seconded by Councilman Helms, with all in favor.

Phillip S. Pardue, Jr.
City Clerk

Mayor Pro-Tem

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