

Regular Meeting
Mount Holly City Council
June 8, 1992

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

The invocation was led by Reverend Johnny A. Barker.

The minutes of May 11, 1992 were approved as written upon MOTION by Councilman Jessen, seconded by Councilman Small, with all in favor.

Mayor Black stated that the public address system had been worked on and the audience was asked to tell him if it is not working. He further stated that there has been complaint of talking in the audience, and he asked that everyone be quiet, and go into the hallway if they need to talk. All questions must be directed to the chair so that order be maintained.

The regular meeting was recessed and a public hearing called for consideration of the request by Hoechst Celanese for an exemption as to the Flood Plain Ordinance regarding fill in dirt and construction. Mr. Fred Eilskov appeared in its behalf, and stated that the Planning Commission has given a favorable recommendation; he reviewed the proposed plan. The property is on the Catawba River near the company's waste treatment facility and the Duke Power Company right-of-way, and lies within the 100 year flood plain area designated on flood zone maps. The company wants to fill in dirt in the low lying area so that it will be above flood level and then will expand their facilities. About 1/10 of an acre would be filled in, and a private road bed with stone at first, pavement later, would be installed across it. They will use "construction fill." They have hired Law Engineering to assure that environmental requirements are met and so that EPA standards are not violated. There were no other comments from the Council or audience.

The public hearing was called to consider a request for rezoning a one-half acre parcel at the intersection of N. Main St. and Jenkins St. from B-2 to R-10. Pearl Pryor said the neighborhood is very nice with lots of children and they want it to stay that way and do not want any business to be put there. Mayor Pro-Tem Little noted that the memo shows the property owner was notified. Mr. Joel Hubbard, from Reg Robinson Real Estate, said he had talked to the owner that week and she does not oppose the rezoning. Mr. Merlin Brown recalled that there used to be a one-man garage there years ago owned by Mr. Hollar, but it was never meant to be a big business and he is in favor of it being residential. There were no other comments.

The public hearings were adjourned and the regular meeting resumed. Councilwoman Little MOVED to accept and approve the request by Hoechst Celanese for exemption under the Flood Plain Ordinance for the fill in and construction as presented in letter from T. Robert Lyons and Associates, Engineers, dated May 27, 1992, and shown on the maps attached thereto, (Resolution #6-8-92(a)); seconded by Councilman Jessen and carried with five ayes.

Councilwoman Little MOVED to rezone the 1/2 acre on the southwest corner of North Main at Jenkins from B-2 to R-10; seconded by Councilman Small with all in favor.

Mr. David Pond, W. K. Dickson, Engineers, appeared before Council and expounded on his letter of May 29 whereby he recommended that the Council not begin headworks analysis on the Jadco-Hughes proposal until his firm reviews the technical data in place from the studies already performed and makes a recommendation as to whether or not to proceed with the headworks analysis. The analysis is expensive and he felt it would be better for Jadco-Hughes to pay for their fees and costs to do this work first, on a cost-plus basis not to exceed \$6,000.00, rather than the large sum for the analysis, and then be turned down. Time would also be allowed for a meeting with EPA to discuss the options available to Mt. Holly. They would report to Council at the July meeting. Councilman Small stated he is concerned there is still waste buried on the site they have not found and we do not know what we are getting into; and that if an unknown comes into our sewer system and we send it out in sludge to farmland, then the City has a problem it does not want. Councilwoman Nichols was concerned that the private wells around the site are contaminated. Councilman Jessen said the Council must do what is in the best interest of the environment, and the report says there are two choices, either to treat the waste and run it into the Mt. Holly system, or dump it in Fites Creek. Mr. David Berg stated he finds it hard to believe there are only two choices. The Council concurred that the engineers bring a recommendation to the July meeting, and all fees and expenses be charged to Jadco-Hughes Steering Committee. Mayor Black stated that the Mt. Holly sewer system is currently in good working order according to the last review of the plant.

Mayor Black reported that a letter had been sent objecting to the derogatory news program purporting that Mount Holly is a place where hate grows which aired on WSOC News. The response received denied that they had misled anyone and that they would not issue a retraction. David Berg said they should be chastised for it. Lib Nichols said that Minnie Woolwine told her they interviewed her and she praised Mt. Holly but they did not show her in the report. Charlene McRorie said that we all know there are racial problems all over, but she is upset that they put it like the KKK is centered in Mt. Holly when it is not. The letter proposed by the City Attorney was read and approved to be sent.

The appointment of two members to the Board of Adjustment was tabled until the next regular meeting so that there will be six councilmembers present, upon MOTION by Councilwoman Little, seconded by Councilman Jessen, with all in favor. Mr. David Berg reported to the Council that there will not be a quorum the next week for the monthly meeting of the Board.

As to City Hall renovations, Mr. Mills with HDR Engineering reported he has two new quotes on the electrical work since the hired electrician has backed out. He has retained the bid bond of \$1,445.00 from Lail Electric which would be forfeited to the City. The mechanical contractor is proceeding. The Council agreed they do not have time to rebid. Mr. Mills said he was given a verbal lower bid by Stroup for \$45,000. Councilwoman Little MOVED to award the bid for electrical work at City Hall to Stroup Electric at \$45,000 or to such other lowest in-writing bidder as the City Manager determines, and authorized the City Manager and Mayor to execute a contract with the lowest bidder; seconded by Councilman Jessen with all in favor.

Cathy Horton, representing Walley Drive residents, stated that she has a letter dated August 26, 1981, from Eddie Nichols that says Walley Drive had been constructed per City specs and it would be recommended for approval; they believe the City dropped the ball. Councilman Jessen had made a chronological list of events as the letters and minutes of City Council record them, and found that the City Manager did not recommend it when it came to Council because the drainage was stopped up and because of the owner transfer needed; that a right-of-way agreement was prepared but never executed by the owner, which agreement contained certain items to be performed by the owner before approval would be granted; that the City Manager found it was okay except it needed stone in the culvert and the sewer line had to be transferred. At a Council meeting, a motion passed accepting it subject to engineering fees to be paid, the drainage to be fixed, the sewer to be transferred to the City, and \$200 paid for seeding. These things were not done by the owner, Dixon-Jenkins, because Farmers Home Administration let him have the rest of his money, and he never returned. Councilman Jessen said the record shows that the City took all appropriate action it could, and the owner failed to meet the criteria required; that the City has never taken over a street unless it is in accordance with City specs except in compliance with an annexation plan. He had gone out to Walley Drive and found it is currently a rutted driveway, and so he MOVED that the request that Walley Drive be accepted and maintained by the City be denied, motion seconded by Councilwoman Little. Councilwoman Nichols said she had talked with a Mrs. Miller who was told by someone in City employ that the City would keep gravel on it up to the telephone pole at her drive. Councilman Jessen said it is unfortunate when someone is given misinformation. The motion carried with five ayes.

Councilwoman Little moved to set a public hearing and give proper notice and advertisement for consideration of the proposed City

budget for the fiscal year 1992-1993, on June 29, 1992 at 7:30 P.M., seconded by Councilman Jessen, with all in favor. They set workshop sessions for June 16th and 23rd.

The proposed railroad crossing agreement for Lee Street was rejected upon MOTION by Councilman Small seconded by Councilwoman Harris with all in favor.

A request for rezoning by Dwayne McCorkle of a 1.1 acre tract on North River Street from R-6 to R-20 had been denied by the Planning Commission for the reason that it would be spot zoning. Mr. McCorkle said the Lone Star 663 wants to build a Masonic Lodge there and the only residential zone in our ordinance that allows a lodge is R-20. There is presently no R-20 zone within the City limits. Mayor Black asked if this request is the only way they can be allowed to build a lodge. Mr. Roberts said they can apply for a change in the permitted uses. Councilwoman Little asked how lodges got to be in the City on Highway 27; they were there before the zoning ordinance was enacted. She also asked if this is near a flood zone; it is entirely in the flood zone, but Mr. Roberts reported that they plan to build the building higher than the flood plain level. Councilman Small said he thought there was a lodge on Alexander Street; Mr. McCorkle did not know or remember one; there is a church. Councilman Jessen MOVED to deny the request due to the fact that it would be spot zoning, but instructed the City Manager and staff to look into possible legal alternatives; seconded by Councilman Small and carried with five ayes.

The next item on the agenda was to set a public hearing to amend the zoning ordinance by changing the permitted uses in R-6 to allow lodges. The Council took no action, stating they prefer that the Planning Commission make a recommendation first.

The Council chose not to participate in the proposed Town Hall Day in Raleigh.

Mayor Black stated that he had three complaints from downtown merchants that there is no downtown patrolman; but others have said they see them weekly. Councilwoman Little said the Council's last decision should stand; that there be a patrolman downtown at all times, with the officers alternating that position.

Nancy Dills said a few merchants are planning a Bridal Fair for October 24 from 10 A.M. to 4 P.M. with no charge except for optional box lunches, and they will offer seminars and information about services locally offered, to generate business for Mount Holly. They want to use the old gym but were told it would be \$40.00 per hour, so they are requesting a waiver. Councilwoman Little asked Zip Stowe, the Recreation Director, if this would be a problem; he said it would because they try to treat everyone the same and if they do it for one they would have to do it for others, and also because they would have to have an employee there and there would be site expenses. Councilman Jessen stated it is

a good idea, but the merchants who use the Convention Center in Charlotte have to pay, and he MOVED to deny the request; seconded by Councilwoman Nichols, carried with three ayes and two nays (Little and Small). Mayor Pro-Tem Little said she sympathizes with them and wished it could be reduced or compromised somehow, although she sees that the City must be fair to all.

Nancy Dills requested the City give her one of its flags for her to put in front of her store on East Central, promising to take care of it and take it in and out. This request was granted upon MOTION by Councilman Small, seconded by Councilwoman Harris, with all in favor.

Mayor Pro-Tem Little MOVED to regretfully accept Councilman Biggerstaff's resignation and sent best wishes to him and his family; seconded by Councilman Small, with all in favor.

Mayor Black asked the Council if they were prepared to fill the vacated Council seat that evening; they concurred. Mayor Black said he cannot vote; but he can nominate, and he nominated Dr. Robert Duke, stating that he has served sixteen years in the past, and only missed two meetings, lost in the last election by only three votes, and was faithful in carrying out his committee duties. Councilman Small stated that if more than one is nominated, he wants to delay the appointment until they each talk to all the nominees, and he might have another name to nominate. The Council agreed to vote on all nominations alphabetically. The City Attorney had researched the procedure by Robert's Rules of Order and had issued a memo that the Council had received prior to the meeting. Mayor Pro-Tem Little asked if it is true that each person can only vote aye once and nay the other times; Mr. Michael said that is incorrect, they may vote aye or nay on the vote for each nomination. Councilwoman Nichols nominated Jim Hope. Mayor Pro-Tem Little MOVED that the nominations be closed, seconded by Councilwoman Harris, carried with five ayes. The vote was taken, with two ayes for Duke and three ayes for Hope. Stating that she hoped for harmony on the Council, Mayor Pro-Tem Little MOVED that the nomination for Jim Hope be unanimous, seconded by Councilman Small, and carried with five ayes. Mayor Pro-Tem Little asked that the minutes reflect that Mr. Hope's term of office will be until election, and the person coming in fourth will fill the remainder of Councilman Biggerstaff's term.

The floor was opened to complaints or petitions not on the agenda. Nancy Dills said that the new flags stay wrapped around the poles, and she thinks they should use clips or something; the City Manager will handle this matter. She said campaign posters are already being put up and she would like the Council to not let them do that this early and make them take them down. Then, she said the patrolman checks on her each week, but reported there are people who park on the street who leave their radio on very loud so that she has problems hearing customers or her phone, and asked that the noise ordinance be enforced. Lastly, she asked that a stop light be put up at the intersection of Catawba and Highland; the City Manager will request this from DOT.

Mr. Merlin Brown said he has been told this and that, back and forth, and now he hears buying the land is the holdup for the water tank; but he knows Duke Power will work with the City and said the holdup is really someone who is being lazy and needs to get on with it. He further said that he thinks all City department heads should be present at Council meetings to answer questions. He stated he will run for City Council in the next election.

Mr. Carl Stilwell, Woodland Park, complained that people go down the road at River Street Park to Dutchman Creek across from his property who drink too much and stand in plain view of his wife and children and urinate and call out vulgar things; he has called the police, but they are usually too late getting there or cannot do anything. He asked that the City allow him to pay for the construction of a fence that will block the view, to be built on the Park side of the creek at that site. Mayor Black said this happened a couple years ago and the police patrolled it heavily and got it stopped; he had asked for a curfew but there was not one made. Councilwoman Little was in favor of letting him do as he suggested. Councilman Jessen said the City and no one else should give in to a few antisocial people; that they are doing wrong, and should be made to stop by the police so that good people will not be prevented from using the park and from fishing in the creek. City Manager Ponder said the Police Department states there is no enforceable ordinance in Mt. Holly that they can use in court; and they want restricted hours and restricted access to the creek bank. Gary McManus said he has seen this problem also and would like it stopped. Councilman Jessen MOVED that the City Manager be instructed to close the access to that pathway from a portion of River Street Park to the creek that is on City property as far as it is in his power; seconded by Councilwoman Harris. City Attorney Michael asked if this is a public dedicated road and whether or not anyone would need it for access to their property. Someone pointed out that the map Mr. McCorkle brought with his request for a lodge shows that it is part of a platted although unopened street. Councilman Jessen withdrew his motion, Councilwoman Harris withdrew her second, and the City Attorney was asked to work on a proposal.

Mr. David Berg, as Chairman of the Board of Adjustments, thanked the Council for allowing the City Attorney to attend their meetings; they had found his advice helpful. He further said that from the seminar that COG held he understood that a Councilmember can serve on the Board also, and he asked that Mr. Hope be allowed to stay, but if not, there will be need of another member for a three year term.

The Council took a five minute recess.

Councilwoman Nichols, liason to the Recreation Commission, reported that the Tuckaseege Park ballfield is a mess, and she and several of the Recreation Commission present stated there are wood chips from Hugo pickup surfacing which should have been removed,

pits in the ground, and the grass is dying and sparse; they feel the work paid for was poorly done. They said a City tractor has cut the grass and made ruts because the ground was too wet and soft, and they do not want them to go back without Zip's approval. Councilwoman Little thought it was not to be used this year, and Small agreed. The minutes Councilman Jessen had showed it was to be used for day, if ready, for phase one, and then fencing and lights to be added later. Councilwoman Little asked why they are just now coming to Council to complain if they did not like the plan. She said over \$50,000 has been spent and if the field is not right it is because the contractor did not do his job, and someone should have looked over his shoulder and reported it before he was paid. Councilman Jessen said that contrary to what they were saying, the Council understood what they proposed, but he and Councilman Biggerstaff felt three fields are needed, and the plan was designed for that with the available land. Recreation Director Zip Stowe said that they want one regulation softball field of 300 feet, a 200 foot field for little league, and a T-Ball field. Councilman Jessen questioned whether the City needs to supply a field for adult league tournaments when they can use East Gaston, and the field could be made useful to more of a variety. Carl Baber, with Gaston County, said the 1975 plan went by the wayside somehow, and he agrees you should provide for your citizens first, but he suggested that the little league be 200 feet, and he said most softball fields are 300 feet now, although you can use 290 with a higher fence, which would leave a 160 foot field for T-Ball. After much discussion, the Council asked Mr. Stowe to work with Mr. Baber doing measurements and drafting a plan for the three fields he suggested.

The City Attorney returned with his proposal for the River Street matter, and Councilman Jessen MOVED that River Street be temporarily barricaded and closed to traffic from the City's parking lot at River Street Park North to its terminus at Dutchman's Creek; and that access shall be allowed to all adjoining property owners while the temporary barricade is in place; motion seconded by Councilman Small with all in favor.

Councilman Jessen MOVED that the City Council call for a public hearing on the question of permanently closing a portion of N. River Street (Fifth Avenue) from a point forty feet North of First Street going North to Dutchman's Creek, with appropriate advertising being paid by the City; seconded by Councilwoman Nichols and carried with five ayes.

Councilman Jessen MOVED that on-street parking be prohibited effective on June 8, 1992, on River Street North of the City's parking lot at River Street Park to Dutchman's Creek, and that cars parked in violation of this parking ordinance shall be subject to towing at the owner's expense; seconded by Councilwoman Harris and passed by five ayes.

Mayor Black appointed Councilman Small and Councilwoman Little to a committee to negotiate with the Catawba Heights Volunteer Fire

Department.

Mayor Black asked for a report on trash containers downtown; the committee gave preliminary findings but said the complete recommendation is not complete.

Councilwoman Little MOVED that City Manager Ponder be reimbursed for his moving expenses in the amount of \$547.50; seconded by Councilman Jessen with all in favor.

City Manager Phil Ponder said that the agreement with Jadco-Hughes to reimburse for engineering fees and costs is being prepared by their attorney but is not in final form yet. The Council instructed the City Manager and Mayor to sign the agreement after the City Attorney reviews it and gives approval.

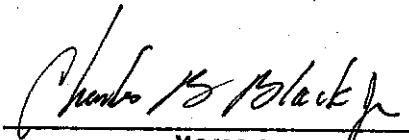
City Manager Ponder stated that as a part of City Hall renovations a fuel tank at the rear of the building needs to be removed; this will trigger a need for an analysis for environmental contamination. Eddie Nichols said the estimate is \$4,460 for removal of the tank and analysis, plus removal of contaminated soil at \$75 per ton and \$1,500 for a second analysis if contamination is found. Infrared treatment is \$75 per ton. If removed, there will be a hazardous waste fee of \$90 per ton for burning and \$75 per ton for spreading on dormant farmland. Councilman Jessen MOVED to authorize the City Manager, City Attorney, and Director of Public Works to negotiate a contract with Spatco at the lowest price to have the tank at the rear of City Hall removed; seconded by Councilwoman Little, carried with five ayes.

Councilwoman Little MOVED to go into executive session for attorney-client purposes; seconded by Councilman Jessen, with all in favor.

Upon return to regular session, the meeting was adjourned upon motion duly made, seconded and carried.



City Clerk



Mayor
