

Regular Meeting
City Council
May 13, 1996

The regular meeting was held at City Hall, and was called to order by Mayor Frank McLean at 7:30 P. M. Those present were Councilwoman Phyllis Harris, Mayor Pro-Tem Michael Helms, Councilmen R. L. Duke, Andy Stewart, and David Hostetler Jr., as well as City Manager Phil Ponder, City Attorney Kemp Michael, Public Works Director Eddie Nichols, Zoning Administrator Danny Jackson and a police representative. Councilman Jim Hope was absent due to the graduation of his daughters from college in Wilmington, N.C.

The invocation was led by Rev. Roger Grassfield.

Councilman Helms **MOVED** to approve the minutes of April 4 and 8, 1996, with the following corrections: April 8--page 4, par. 2: add a second sentence to read: "Councilman Stewart stated his concern with the large amount spent on copies which were not needed for the zoning ordinance". This motion was seconded by Councilman Duke, with all present in favor.

Mayor McLean recessed the regular meeting and called a public hearing for consideration of the proposed revised zoning regulations. Danny Jackson said the Planning Commission had held its public hearing and recommends adoption. Steve Davenport was present to answer questions. Councilman Hostetler said he wants the format to be user friendly and asked if this was the final product. Mr. Jackson said after adoption of the text of the ordinance, the staff will put the text into a format on the computer that will be easier to read. The illustrations will be included. Councilman Hostetler suggested adopting the new ordinance contingent on that being done. City Attorney Michael said the zoning ordinance is a legal document which must be adopted and effective on a definite date even if the Council gives the staff instructions about printing it. Councilman Helms asked if the input from citizens had been considered. Mr. Jackson said it had been, that Steve Davenport had met with several and had incorporated some of the suggestions in the proposal. There were no comments from the audience. Councilman Duke moved to close the public hearing and go into regular session, seconded by Councilman Hostetler, with all in favor. The regular meeting was resumed. Councilman Hostetler **MOVED** to adopt the new zoning ordinance entitled "Chapter 20 Zoning Ordinance of the City of Mount Holly" as presented with direction to staff to improve the font and format and location of the illustrations included so it will be more user friendly, to be effective May 14, 1996, at 12:01 A.M. This motion was seconded by Councilwoman Harris, with all present in favor.

The regular meeting was recessed by Mayor McLean, who called a public hearing for consideration of a request to rezone a tract of land near the intersection of N. C. 273 on Tuckaseege Road,

from R-8 MF to B-2, owned by Frank Garrison. Danny Jackson said the Planning Commission had held its public hearing and recommends approval. The lot adjoins the new bank on the corner. It is across the street from a business property. The structure existing on the lot will become non-conforming. He has had no complaints. Mr. Doug Arthurs, attorney for Mr. Garrison, was recognized, and stated Mr. Garrison's realtor advised him the highest and best value of the property is commercial. There were no other comments. Councilman Duke moved to close the public hearing and resume the regular meeting, seconded by Councilwoman Harris, with all in favor. Councilman Stewart **MOVED** to approve the rezoning of Frank Garrison's lot on Tuckaseege Road from R-8 to B-2, seconded by Councilman Duke, with all present in favor.

The regular meeting was recessed for a public hearing which was called to order by Mayor McLean regarding the rezoning of twenty-two (22) lots along East Charlotte Avenue and East Central Avenue, from B-4 to B-3. Zoning Administrator Jackson said there is no B-4 under the new zoning ordinance, and the Planning Commission recommends approval; they have held a public hearing also. There were no comments from the audience. Councilman Duke moved to close the public hearing and resume the regular meeting, seconded by Councilman Stewart, with all in favor. Councilman Duke **MOVED** to approve the rezoning of 22 lots from B-4 to B-3 on East Charlotte Avenue and East Central Avenue as presented, seconded by Councilman Stewart, with all present in favor.

Mr. Jerry Baker was recognized next. He requested the Council allow him to tap onto the sewer line which is being installed from the Jadco-Hughes clean-up site on Cason Street. His property is outside the city limits, and has five houses on it. He requested he be allowed to run the sewer line through the back yards and have one tap on Cason Street. City Manager Ponder recommended requiring Mr. Baker to install the sewer line in the street right-of-way so there will not be trouble in the future if the property is sold and divided into separate parcels. He also recommended Mr. Baker petition for voluntary annexation. Mr. Baker stated that the 8-inch line would cost \$10,500 plus the individual lines. Councilman Stewart pointed out that if this was a new subdivision tapping on there would have to be separate taps. Councilman Hostetler was in favor of requiring annexation before providing city services. Mr. Baker said he would voluntarily annex, but he did feel separate taps could be installed later if the property were divided. Councilman Helms felt it would be a mistake to install one tap for five houses. Councilwoman Harris agreed, as did Councilman Stewart. Discussion followed regarding who pays for the line if Mr. Baker voluntarily annexes. Councilman Stewart did not feel it would be fair to give him the line free when a developer would have to pay for it. Councilman Hostetler felt if he were in the City, the City should provide the service. However, Councilwoman Harris pointed out that not everyone in the City has sewer service, only those where the service is available are required to tap on. Director Nichols and City Manager Ponder said there are a few

places which do not have city sewer inside the city limits, but about 99% of properties do. City Attorney Michael said he may voluntarily annex even if not contiguous as satellite annexation since we are well below the 12% maximum. Mayor McLean suggested the matter be tabled until more information is obtained to answer the questions raised. City Manager Ponder asked what deadline Mr. Baker is facing, to which he replied he has one house with trouble and will have to add field lines if this is not approved. Councilwoman Harris **MOVED** to table this matter, seconded by Councilman Duke, with all in favor.

City Manager Ponder had obtained information for the Council with regard to corrected the configuration of the Council table as instructed by the Council. They had stated their concern that when seated they cannot see the Mayor or each other. He had received estimates of from \$2,400 to \$9,500. The low estimate is from a local cabinet builder, Earl Wallace. He expected drawings to be available at the end of the week, and said he would send them out in his next memo. The Council members said they will call him with their approval or disapproval of the drawings, and he will proceed accordingly.

Diane Pritchett, Priority One Management, presented a revised CIAP budget for fiscal year 1994-1995, in which funds were moved from administrative necessitated by damage from a fire. The total grant budget remains the same. This budget covers repair and resurface of the parking lot, a concrete pad at the dumpsters, porch lights, breezeway lights, motion lights at the corners, refrigerators and ranges, and erosion control. Councilman Helms **MOVED** to approve Resolution #5-13-96(a) entitled CIAP Budget Revision #2 for Holly Hills Apartments, seconded by Councilwoman Harris, with all in favor. (copy attached)

Ms. Pritchett presented the 1996-1997 budget for Holly Hills Apartments. She stated there was very little change except the rental income is higher, and informed the Council that the financial standing is much better now. City Manager Ponder said this is a submission to HUD to meet its deadline, and this budget will appear again in the overall budget review. Councilman Helms **MOVED** to approve Resolution #5-13-96(b) for the 1996-1997 operating budget at Holly Hills Apartments, seconded by Councilman Duke, with all in favor. (copy attached)

John McLaughlin, W. K. Dickson Engineers, presented two change orders. The first was for installation of a 2" water line to the apartment complex on Killian, being Change Order #1 on contract with Tarheel Construction Company for the Woodlawn and Killian water lines project, increasing the contract by \$1,741.19. The second was Change Order #2 on the same contract, to adjust final quantities, increasing the contract by \$4,177.50, making the final total new contract price \$101,838.69. Councilman Stewart **MOVED** to approve both change orders as presented, seconded by Councilman Hostetler, with all in favor.

Three budget amendments were presented by City Manager Ponder, and were approved upon **MOTION** by Councilman Duke, seconded by Councilman Hostetler, with all in favor. (copies attached).

City Manager Ponder presented his proposal for the city budget for fiscal year 1996-1997 as required by law. He said the details will be ready by May 24, and he requested the Council schedule workshops and a public hearing. He was not recommending a tax increase or water rate increase, but is recommending a sewer rate increase from 95¢ to \$1.15. He also informed the Council that Tim Meade is ready to present his findings in writing, and asked if they wish to meet with him personally. John Maxwell has promised to have his organization assessment ready by the end of May. The Council set a workshop meeting for June 6 at 6:00 P.M.

Councilman Hostetler **MOVED** to set the public hearing for consideration of the 1996-1997 fiscal year municipal budget for June 10, seconded by Councilwoman Harris, with all in favor.

Mr. Scott Pope, Optimist Club representative, was recognized. Mayor McLean also introduced him to the audience as the recently named Man of the Year, along with the Woman of the Year, Councilwoman Harris. Mr. Pope said the Optimists have spent a lot of money fixing up the old Jaycee building on Highway 27 as a community building. However, their cost is about \$1,000 per month on the building, and since their programs with youths are growing, the club has decided to try to sell the building. They want it to continue as a community building and so sent a letter of proposal to the City. Councilman Stewart asked about the deed restrictions. Mr. Pope did not have them but he had been informed that it must continue to be used for a non-profit purpose. He said the building needs some things done to comply with the American Disabilities Act. Councilman Stewart asked what the City staff thought the City might do with the building. Councilman Hostetler did not want the City to sponsor events if it becomes a community building, and wondered if it would just duplicate the use of the Junior High Building. Councilman Duke **MOVED** to table this matter and have the City Manager and staff look into the proposal and bring back a recommendation to Council, seconded by Councilman Hostetler, with all in favor.

The floor was opened for complaints or petitions not on the agenda. Mr. Jack Drum was recognized. He said he had been coming to the Council for 25 years to get help. He stated the City said they would maintain that drainage ditch but it has not and the drainage is washing his fence away. The water stands in his yard. He said the City has gone on private property before so they can do this. Councilman Stewart said the City should maintain it if it can be established that the city put the ditch in. He referred to minutes which said Councilwoman Little recalled the city put it in and she used to live in that subdivision. Mr. Stewart suggested the City put an asphalt curb

on the street. Mr. Drum said it needs a catch basin in the ditch, clean out the drainage ditch and pipe and put rock in it. City Attorney Michael said the City Council minutes are likely the only record, and he did not believe there would be anything in the deed record about this matter. Mr. Michael also stated that he has been City Attorney for over 20 years, from when Mayor Whitt was in office, and there have been requests off and on for the City to correct drainage problems, but every Council has been consistent in not going on private property, but only on public right-of-ways. It was his opinion the City should not start because it does not have the resources to fix all the drainage problems throughout the City, and it is the responsibility of the property owner to take care of drainage on his property. City Manager Ponder said the City is repaving Timberlane and will replace the curb on it. Mr. Ponder stated that he had included in the memo information related to an elevation study of the area, showing that Mr. Drum's house is built in the middle of the low point for two natural drainage courses for the whole area, and the water runs off all the surrounding land, not just the street, onto his property. Mr. Drum said it is coming off the city streets, and he is not spending a dime to fix it because the City should do it. Mr. Ponder continued that the engineer's estimate of cost in 1984 was \$33,000, and the Council voted then not to go onto private property. Councilman Helms said it is obvious when looking at the map that the problem is his property is the low point and the water runs off all the above properties not just the street. Mayor McLean said the City might consider putting a curb on his road, but he was not in favor of going on private property. Councilwoman Harris said she agreed the City does not and should not go on private property. Mr. Drum said he did not want to hear that from her. Councilwoman Harris said he was not to speak to her that way. Director of Public Works Eddie Nichols was asked for an opinion, and stated that a curb and pipe would only make the water travel faster so it would erode worse than it does now; that the field slows down and absorbs some of the water. Mr. Nichols said an asphalt lip could be put on North Drive. Councilwoman Harris **MOVED** to deny the request, seconded by Councilman Helms, and carried with three ayes and two nays (Hostetler and Stewart). Mrs. Harris apologized for raising her voice.

Mr. Ron Dimmer was recognized next. Mr. Dimmer said his engineer had called him about his new subdivision, stating that he had gotten a call from a DOT representative, who had been called by Danny Jackson. A neighbor has threatened to sue him if he does not change the entrance to Rachel Street instead of Handsel. He said he was shocked and said he did not know there was a problem until then. He recalled that it was his option to put the entrance at either place that he determined to be best. His engineer, Larry Ritter, said changing the plans would require \$5,000 in fees, resubmission to the State, etc. and would mean one lot would be lost. He agreed Rachel is a better entrance because it looks better to prospective buyers. But he said DOT has looked at Handsel Street and said it is safe to put his

entrance there. He had a letter that said they have no preference. He said the Council minutes of November 4 are in error when it is said he was "required" to change the entrance to Rachel Street. He had talked to former Mayor Black, Councilman Helms and Councilman Jessen, and they don't remember and do not feel strongly either way. Councilman Hope who made the motion was not present this evening. Mr. Dimmer said he has already cut the streets (in January) and put in storm drains, and so he requested the Council change the requirement so he can use Handsel as the entrance. The owner on the corner, Mr. Melton, has cut his hedge back for better sight. Councilman Hostetler asked Mr. Dimmer why he waited until now to ask. Mr. Dimmer said the plans had Handsel on them and he went with that on advice of his engineer as to cost and time. Councilman Helms said he went out to look at the site, and he saw that the water runoff would cause a problem if the road was cut to enter on Rachel, so it is better the way he has done it, and he felt they had made a mistake by requiring Mr. Dimmer to use Rachel Street. Councilman Hostetler said he was in the audience last November and remembers the other neighbors were in attendance and they were very upset about the safety and they wanted it to be on Rachel Street; he recalled that Mr. Dimmer said he would change the plans. Councilman Helms and Councilwoman Harris stated they wanted to talk to the neighbors before deciding whether or not to make a change in the requirement. Councilman Stewart agreed, stating he also remembered the neighbors' statements. City Attorney Michael stated for the record that his law firm has represented Mr. Dimmer in the past on several matters, but he had other counsel advise him on this matter before Council tonight. Mr. Dimmer asked what could be done so that he does not have to wait until the next Council meeting in June to proceed. Mr. Ritter was recognized, and he stated that he had discussed the entrance going out the other way onto Rachel before the plans were brought to the City because it would market better, but the lower lots did not perk, and when they could not get City sewer, the best land had to be used for the houses and the street put on the bad land, to make the project cost effective. Mr. Ritter said he had several conferences with City staff and did not know until last week this was a problem. He reminded the Council the intersection in question was already there, that DOT has no objection, and that the real problem is the tall hedges. A representative from Grace Baptist Church which adjoins the subdivision property was recognized, and he stated that the 24 inch concrete pipe dumps onto their property near their drainage fields for their septic system. This is a problem due to the level ground and inferior perking ability of their property. Mr. Ritter said he has met all regulations and design criteria by the State, and specifically, he has used a larger pipe and reduced grade to slow down the water before it discharges, with riprap rock at the end of the pipe. He further stated the pipe was laid in an already existing drainage basin. The church representative said they are not worried about the velocity but the volume of water from the development of the property. Mr. Dimmer reminded the Council they made him do a 30 foot paved road when he has

asked to do a 20 foot since it is a cul-de-sac, and he had wanted to do ditches instead of curb and sidewalk, which would also absorb some of the water. Councilman Stewart asked what would the City be obligated to do if Mr. Dimmer does what he wants and someone files a complaint. Mr. Michael said he cannot get a building permit if he is not in compliance with the City regulations. Councilman Stewart said he was in the audience at the November meeting and he remembers the neighbors were very serious about the danger and the Council said to change it to Rachel Street, that he was sorry Mr. Dimmer did not understand that, but the other people have to be considered. Mr. Michael recommended they take no action without Councilman Hope who had made the prior motion. Councilwoman Harris **MOVED** to direct staff to contact the neighboring people who attended in November and inform them of what has happened and about Mr. Dimmer's request, seconded by Councilman Helms, with all in favor.

The City Manager was asked to see if Mr. Tim Meade could meet with them on May 23rd, and they will consider Mr. Dimmer's matter at the same time that meeting is set; he will notify the council.

The Council took a five minute recess.

Councilman Stewart **MOVED** to go into closed session for attorney-client matters, seconded by Councilman Duke, with all in favor. Councilwoman Harris **MOVED** to return to open session, seconded by Councilman Hostetler, with all in favor.

Councilwoman Harris **MOVED** that a letter be sent to Phil Chen informing him that his sign has been determined to be non-conforming, but the Council is not enforcing the removal or replacement of it because he had received a certificate of zoning compliance prior to adoption of the present sign ordinance at a time in which a moratorium was in place by the City Council pertaining to enforcement of the previous sign ordinance, seconded by Councilman Helms, with all in favor.

City Manager Ponder had information for the Council about name tags. Some were expensive because they included the City seal. The Council asked him to bring back choices that are less expensive and smaller.

City Manager Ponder announced that a local teacher, Scott Griffin, has been named the N. C. State Teacher of the Year. The Mayor asked City Attorney Michael to prepare a proclamation.

City Manager Ponder informed the Council that Donna Keepes had retired after 30 years; the City Attorney will also prepare a proclamation in her honor.

City Manager Ponder said he has asked Eddie Nichols to address a concern of Councilman Hostetler related to backflow prevention devices, and he will send out a memo.

Councilman Stewart said that he would like to know what other services the City has been giving for free for which it should be charging a fee such as the recently adopted fee for developers who use letters of credit.

Councilman Stewart said that the City Council would not have to deal with housing matters if it had a Housing Authority. City Attorney Michael said it can be a worse problem having the Authority because then you have to be sure they are doing what they should. Councilman Hostetler said he would rather sell the properties anyway.

Councilwoman Harris said she has had a lot of calls recently about trash such as tree limbs, etc. not being picked up, especially at 14 American Street. Mayor McLean said they had some truck problems. Mr. Ponder said garbage is the priority and the department has had a labor shortage, in fact they had two out that day, but he would check on it.

Councilman Helms reported a bad pothole on Beatty Road. Councilman Duke reported one on North Main at Dutchman Creek bridge.

Councilman Duke suggested the police department note potholes and burned out street lights and turn them in to the City Manager. He also reminded Mr. Ponder to look into a retainer of some sort for the rock in the railroad right-of-way on Central Avenue.

Councilman Duke asked there be a plaque placed on the last purchased fire truck.

Councilman Hostetler suggested a timer be used to limit speakers to five minutes. Councilman Stewart suggested a sign in sheet on which they must state the subject.

Councilman Hostetler asked the City Manager to recommend who can prune the crepe myrtles along the railroad.

Councilman Hostetler was concerned that they have no response from DOT about the requests made. Mr. Ponder said Mr. Jenkins did come the prior Tuesday for about two hours and he agreed the things requested are needed, but has not sent anything in writing yet.

Mayor McLean had heard the County may give us a small scraper that can be used on the ball fields.

Mayor McLean said he is working on getting the post office moved to a better building. Councilwoman Harris said she took the information about the Post Office Committee and its concerns to the Postmistress two weeks ago, but had not had a response.

Mayor McLean said Gary McManus's class will be visiting City Hall and the Police Department on June 5, and will also see the Archives Room.

There being no further business, the meeting was adjourned, upon motion by Councilman Duke, seconded by Councilwoman Harris, with all in favor, at 11:35 P.M.

Gilbert D. Ponder, Jr.
City Clerk

Frank E. McLean
Mayor
