

CITY COUNCIL**Special Meeting****April 25, 2000****CALL TO ORDER BY THE MAYOR**

The special meeting of the City Council of Mount Holly was called to order at 7:00 P.M. by Mayor McLean. The following were present:

Mayor Frank McLean

Mayor Pro-Tem Bobby Black

Councilman Michael Helms

Councilwoman Phyllis Harris

Councilwoman Pat Hubbard

Councilman Jim Hope

Councilman Bryan Hough

City Manager David Kraus

City Attorney Kemp Michael

Recreation Director Zip Stowe

Adm. Officer Jamie Guffey

INVOCATION

The invocation was led by Mayor McLean.

PROCLAMATION

Mayor McLean read proclamation April 30th through May 6th, Municipal Clerks Week. (copy attached)

TAILRACE PARK AREA

City Manager Kraus said this meeting is called to consider a lease from Duke Energy for Tailrace Park Area. In order to get the grant funded, the lease had to be approved before May 1st.

Zip Stowe said the area for the lease is 38 acres, and the term of the lease is for 25 years. We now have 24 acres of recreation space in the City, with about 16 acres in ballfields. The grant application includes canoe access that I propose would connect the park with River Street Park. The grant includes paving for a portion of the road to make it handicap accessible, and the rest will be compacted rock dust. There will be a nature trail. There would be a picnic shelter. There are proposed eight primitive campsites. One of the concerns is about safety. The campsites would only be used by group campers and require a permit to use that facility. He has contacted the County about using some of their park officers to police the area. The grant is a 50-50 grant with matching funds from the City. He has already put the City's share in next year's budget. Duke Energy said that a wildlife group is going to control about 2 acres of this land. Councilman Hough asked if there are any offers of monetary assistance from other sources. He said he has one offer for the picnic shelter. Mr. Stowe said he has \$25,000 in the budget from the grant we did not get last year, that he would like to use for a

restroom facility. Councilman Helms said that FERC would have to approve a restroom. He had enclosed a copy of the land use plan that this does not conflict with.

Judi Simac said we are one of several communities who have been offered this type of lease. She stated there is a River Patrol which is paid for by the various counties. They have authority to patrol the river and 1,000 feet each side. Councilman Helms said they only have one boat that covers a large area. Ms. Simac said the State is looking for more access to the water and trails, so those are the items they are looking for in grant applications. The public hearing on this was held last fall.

Henry Massey, Recreation Commission, said this is a wonderful opportunity. He has walked the property and feels this is a good thing for the city, and will offer passive recreation for our citizens. He felt this would clean up the area also. The Recreation Commission is in favor of the proposed project.

City Manager Kraus said that budgeting has been made for part-time off-duty officers from other departments, so we do not have to pay overtime. Mr. Stowe said he estimated the regular maintenance to be about two hours a week. He uses DWI community service people also, as well as his employees. Councilwoman Hubbard asked about the hours it is open. Mr. Stowe said it would be open from dawn to dusk, and anyone that is found on the site outside those hours without the group camping permit is subject to arrest. Councilman Hope wondered why Duke Power is leasing this land out rather than opening the park themselves. Councilman Helms said it is to reduce their maintenance cost and their liability. Councilman Hope asked if the park does not work out are we stuck with it anyway for 25 years. City Manager Kraus said there is a termination clause in the lease, based on lack of funding. Councilman Hope asked if we can ask for an escape clause. He said yes but may not can negotiate that by the May 1st deadline for the grant. Councilman Hough asked what our liability is. Mr. Michael said that with children under 13 there is a special liability for an "attractive" facility, as opposed to a natural danger. In reality, they would probably sue us and Duke Power. The lease requires us to have \$2 million in liability insurance. Mr. Michael said the wildlife people have been grading the site they leased and put up a fishing pier. Mr. Michael said he is not sure we should undertake maintenance of the shoreline. He asked if you have to amend the application since the wildlife people took part of the property. Mr. Stowe said no. Councilman Helms asked why the lease said it allows for boat launching. Mr. Stowe said this grant is only for a canoe launch like the one at River Street Park, not for a full boat ramp and launch. Mayor McLean asked if the group campers will be able to drive a vehicle to the campsites. He said it is four wheel drive only on that end, but there is another access road that he is going to ask Duke Power if they can use. Councilman Hough asked the city attorney if he has any other concerns about the lease. Mr. Michael said he got it yesterday and has reviewed it. He said he sees it as a responsibility for the City, even though it is not located in the city limits. It is a large tract and would be harder to patrol than the other parks we have. Councilwoman Harris said this was brought to us last fall and they have worked on this for several months, and she wondered why these questions or concerns are just now being asked since we have all already known about it for a long time. She felt the Council should have told them before now if they do not want to do

this. Councilman Hope said he was not necessarily trying to defeat it, but the questions needed to be addressed. Councilman Hough agreed. Councilman Helms said he did not think about the liabilities involved before. Councilman Hubbard felt that way also, that until she saw the lease and the impact it would have on the city, she did not have these questions. Councilman Black asked if we will have to purchase additional insurance for this; Mr. Michael said he expects the city to have to take an additional rider. Councilwoman Hubbard asked why we don't just buy it. City Manager Kraus said they are not selling it. Councilwoman Hubbard asked if we can get a first option to purchase if they offer it for sale, included in our lease. Councilman Hough asked if there is anything that would prevent approval tonight. Mr. Michael said that Duke Power holds the aces, and he can attempt to get an escape clause in the lease, while David checks on whether or not if we cancel the lease we have to repay the grant. Councilman Hough said he believes this is a good investment, and even though it comes with liability, he is in favor of it.

Motion: Councilman Hough **MOVED** to approve the lease of Tailrace Park Area from once staff is sufficiently satisfied with completion of the lease agreement, seconded by Councilman Black.

Discussion: Councilman Helms said he feels it is too much liability and it is not in the city limits so he does not think the city should take on that responsibility.

Vote: three ayes, three nays (Hubbard, Hope, and Helms). Mayor voted nay. **FAILED.** Councilman Hope said he wants to see the park, but he does not like the lease as it is written. Judi Simac asked Council if they would consider marking up the contract with changes you want and submit it in hopes they will approve it with the changes. Councilman Hubbard said her problem is that she does not like the fact that we only got the lease yesterday, and we are making a decision for 25 years.

EXECUTIVE SESSION

Councilman Hough moved to go into executive session for attorney client purposes, seconded by Councilwoman Harris, with all in favor.

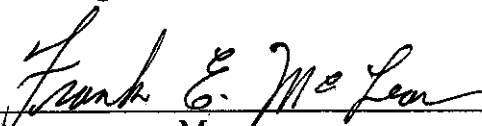
Councilman Hough moved to go out of closed session, seconded by Councilwoman Harris, with all in favor.

ADJOURN

There being no further business, the meeting was adjourned, upon motion duly made by Councilwoman Harris, seconded by Councilman Hough, with all in favor.



Clerk



Mayor

kam