CITY COUNCIL
REGULAR MEETING
April 12, 2004

CALL TO ORDER BY THE MAYOR
The regular meeting of the City Council of Mount Holly was called to order at 7:00 P.M. by Mayor Hough. The following were present:

Mayor Bryan Hough	Jamie Guffey, Assistant to City Manager for Finance/Administration
Mayor Pro-Tem Michael Helms	Danny Jackson, Assistant to City Manager for Community Dev.
Councilman Jim Hope	Benson Hoyle, Police Chief
Councilwoman Phyllis Harris	David Stevens, Interim Fire Chief
Councilman Frank McLean	Don Price, Utilities Director
Councilwoman Pat Hubbard	Mike Santmire, Street & Solid Waste Director
Councilman David Moore	Greg Beal, Community Dev. Officer
City Manager David Kraus	Ryan Baker, Fire Inspector
City Attorney Kemp Michael	Megan Hanks, Communication Director

INVOCATION
The invocation was led by Rev. Jerry Stanfield of Grace Baptist Church.

PLEDGE OF ALLEGIANCE
Troop 59 led the Council and audience in the ceremony of the Pledge of Allegiance.

APPROVAL OF THE AGENDA
The agenda was approved with a change in order in that Unfinished Business will be considered immediately after the Consent Agenda, upon motion by Councilman Helms, seconded by Councilwoman Harris, with all in favor.

CONSENT AGENDA
Councilman Helms **MOVED** to approve the Consent Agenda with 5 items, seconded by Councilwoman Harris, with all in favor. The items approved were:

CA#1. To Accept and Approve the Minutes. Minutes of March 2 and 8, 2004, were approved as written.

CA#2. To Approve Waiver of Payment In Lieu of Taxes for Housing Authority. Resolution 04-12-04 A (copy attached).

CA#3. To Approve Supplemental Appropriation for EMS Pagers. To meet federal regulation on frequencies by May 1, 2004.

CA#4. To Call for a Public Hearing on Amendments to Coexisting Use Regulations. A public hearing will be held at the next regular meeting to consider amending the zoning ordinance to adopt Coexisting Uses as proposed.

CA#5. To Adopt Ordinances to Establish a Lien on Certain Real Property for the Clearing of a Certain Abandoned Structures. Liens are being placed on 302 Cherry Street, 233 Howard Street, and 106 Woods Street. (copies attached)

CA#6. To Consider February and March Tax Releases. Taxes are released in the total sum of $281.82.

UNFINISHED BUSINESS

UFB#1 To Consider Whitewater Contract
Motion: Councilman Helms **MOVED** to approve the contract between the City and Charlotte Whitewater Park, Inc. for the US National Whitewater Center, as submitted this evening, seconded by Councilwoman Hubbard. (copy attached)
Vote: Five ayes, one nay (Hope). CARRIED.

UFB#2 To Consider Sewer Use Ordinances on Fats, Oils, and Greases
City Manager Kraus stated that the state requires that the city amend its ordinance to require grease traps so these substances do not enter sewer lines to reduce sewer backups and clogs. This will need a public hearing.
Motion: Councilwoman Hubbard **MOVED** to call for a public hearing for the next regular meeting to consider adopting amendments to the sewer use ordinance for the control of fats, oils and greases, seconded by Councilman McLean.
Vote: unanimous. CARRIED.

UFB#3 To Consider Procedure for ABC Commissioner Selection.
Council must decided whether to merge with Gastonia or not with its ABC Board, and how it will appoint the delegates to the Board.

Mr. Terry Fisher, a representative from the Cherryville ABC Board. He is the General Manager, and was accompanied by Joel Blackwelder, the chairman. Mr. Fisher made the following comments: I am here to give you pros and cons of having your own Board versus merging with Gastonia ABC Board. I know all the members on their board; they are all great people. You are a growing community, and because you are growing, prospects for growth of ABC sales will be dynamic. If you merge with Gastonia, you will lose your autonomy and you will not have much say so. You have multiple good choices for locations. As I understand it the split was 75-25, and the store costs would be paid out of the 75. I envision your store being a million plus store and believe you will be in the black real soon. I don't see much advantage to you to merge, except they can get you up and running quicker because they have people trained and know what to do already. This is my personal opinion.

Councilwoman Hubbard asked, what involvement did Cherryville have in the start up of yours? Mr. Fisher replied, they named the board and the chairman. Mrs. Hubbard asked, what qualifications should we look for? Mr. Fisher said that business acumen is important, upstanding persons, good solid citizens, and can make good decisions. Mrs. Hubbard asked if he is on the Cherryville Board? Mr.

Fisher said, no, I am a paid employee. Councilwoman Harris asked, does the Board get paid? Mr. Fisher stated that is up to Council, most councils pay a small stipend. The Council picks the chairman. Mrs. Hubbard asked if there is an advantage to having a five member board? Mr. Fisher said, no, we've always had three, and talking to others around the state he has found it is more expense and tends to lead to more disagreements to have more than three. Councilman Moore asked, would you suggest if we got another store, we would need a five member board then? Mr. Fisher said it might be as your business grows you might feel it is good to do, but I feel that the smaller group gets things done more smoothly. Mr. Fisher said that the start up costs depend on what the Board decides. To stock a store it costs $90,000 to $95,000. You also have the rent or building cost, and employee salaries. A manager costs $30- to $35,000 with raises commensurate to how things go at that store. The Cherryville store suffered from the truck plant closing and a lot of mills closing. Mayor Hough asked, what percent of your expense is overhead? Mr. Fisher stated that the markup is 38%, and out of that we pay expenses. We get about 6% net profit right now that the city gets, business is down right now at our store, but we are still in the black. Councilman McLean asked how many part time employees do you have? Mr. Fisher said six, all but two are retired, so that is a reasonable cost. Mayor Hough asked, do you get a vacation? Mr. Fisher said, yes. He said that anything he or the Cherryville ABC Board can do to help the City, they stand ready to do.

Motion: Councilwoman Harris **MOVED** that we not merge with Gastonia, and that we act independently in Mount Holly, and that Council form an ABC Board in Mount Holly, seconded by Councilwoman Hubbard.
Vote: Unanimous. CARRIED.

Councilwoman Hubbard said she would like to start the process of appointing ABC board members by nomination and written ballot. Mayor Hough asked Council if they were ready to do that immediately. Most said, No. Mayor Hough asked if everyone agrees to the process of nomination and written ballot? Yes, they all agreed. Mayor Hough stated this will be done at the next regular meeting in May.

PRESENTATIONS

PR#1 Recognition and Proclamation for Jones Brothers Grocery

Mayor Hough and the Council stepped down to the council floor to read a proclamation in recognition of Jones Brothers Grocery, and present a framed copy to them. Mike Jones, Judson Jones, and John E. Jones were present to accept the proclamation. Jones Brothers has been an institution downtown in Mount Holly for 68 years. Three generations of family have operated the grocery store. (copy attached) John Jones said we thank you for your business over the years, and the friendships, and our many employees who have moved on to greater things over the years, and we hope the friendships will continue; we all thank you.

PR#2 Proclamation of Telecommunicators Week
Mayor Hough and the Council declared the April 11-17 week as National Telecommunicators Week in Mount Holly, in recognition of the effort, diligence and accuracy that our dispatchers provide, which is vital to prompt response to emergency calls (copy attached).

PR#3 Resolution for Mount Holly Rotary Club
Mayor Hough and the Council made a proclamation in honor of the Mount Holly Rotary Club for its sixtieth anniversary (copy attached), on April 14, 2004. Their motto is "Service above self". It was presented to Kevin Collier, president. Mr. Collier thanked the City for this honor on behalf of the club. He also recognized Bob Duke who has 42 years of perfect attendance in the Club.

PR#4 Presentation by Mr. Carlton Broome regarding the Whitewater Contract
Mr. Broome passed since Council has already voted; but thanked Council for the opportunity.

PR#5 Presentation by Representative from an ABC Store
Mr. Fisher already spoke under Unfinished Business above.

The Council took a five minute recess.

PUBLIC COMMENT
Hough opened the floor for public comment.

William and Mason Farmer were recognized. William thanked Council for its vote to support the whitewater park. This will provide a place for us to have outdoor activity without having to travel hours. I am involved in kayaking and believe this will make Mount Holly an even better place to live. Mason, 8 years old, said he enjoys bicycling and camping and whitewater rafting. He stated he likes to enjoy these things with his family, and that they are more fun than video games. It is great exercise. He said, Thank you, also.

PUBLIC HEARINGS
PH#1 To Consider Rezoning of Rhyne Trace
Councilman Helms moved to go into public hearing, seconded by Councilwoman Harris, and unanimously carried. Mayor Hough recessed the regular meeting and opened the public hearing to consider rezoning the Charles Rhyne property on West Catawba Avenue Extension, upon request by Charles Rhyne Family Limited Partnership.

Danny Jackson stated that Mr. Jacobus has petitioned for rezoning of the Charles Rhyne property about a year ago. That petition was withdrawn and they have brought back a new plan. The Planning Commission tied in its vote on this matter, with only six members present out of the nine.

Charles Rhyne Jr. was recognized, and stated he represents 12 family members. He made the following comments: Our family has owned this property nearly 150 years. We have a sentimental attachment to it, but with estate taxes we are finding it necessary to sell that land. We put six acres aside with the house and have sold it to a nice family with seven children, and so we feel good about the "homeplace" now. We have looked at a lot of options over the last two years. We did not sell it to the highest bidders. We felt we had a responsibility. Our ancestor was first elected Mayor, and we have three uncles and five cousins that were mayors. Father was a county commissioner, our family has been in this area for almost 200 years. We are happy with this developer; they have met with the community and he has brought on local builders, and they changed their plan to try to meet your expectations. With the whitewater park coming, there will be a broadening of the tax base and a diversity of tax base. This property bumps up against the City of Belmont, with mill houses of 800 square feet average size next to us. This proposed plan will have the smallest houses of 1600 square feet next to that. By annexing this property you will bring one of the most historical houses in this region into your city. Our other home where Eckerds is now was where they met and decided to make Gaston County, to break off from Lincoln County. I believe the City will be proud of this subdivision plan.

Mr. Jacobus. Thank you for allowing me to come before you. Quick story, my children Tara and Teddy invited us to celebrate Easter with them and their Rev. Don read from John's account about the resurrection of Christ. He said if this was a modern event, they would have had it taped off and be taking fingerprints. I see myself like Columbo, a detective; when I go to create a new neighborhood, I go to figure out what the best possible neighborhood I can make would be. I visited Danny Jackson, looked at the old neighborhoods and new ones, and thought I had a good idea. Turned out I was wrong. Along about January, I remembered that I had been referred to Greg Dimmer, I looked at his neighborhood, and he said he would love to be a part of this neighborhood. This plan is different, it has larger houses, less density, and will attract young professionals. To summarize pieces of the new plan being submitted: I have four pictures of houses we plan to build here (passed to Council). The upscale homes will be built by Greg Dimmer, with minimum square feet size of 1600 and up. We will build 1500 square and up in our section. We believe the average will be 2000 square feet. At the last meeting, I gave you excerpts from your land development plan. The plan shows medium density or low density on this property. We are going with low density, an average of four per acre. Average lot size is 11,525 sq. feet. We are proposing conditional uses: minimum square feet; Dimmer homes all brick front, the proposed restrictions are in your packet. We have made aesthetic considerations: over 10 acres of open space; trees on Fites Creek preserved; stone entry at both entries; buffer of trees on Catawba Avenue; decorative street lights. Along Fites Creek we will donate a portion of that at the appropriate time for your greenway plans. The railway at the back will be preserved which we understand may become part of a "Rails to Trails" project. $150,000 to $250 or $300,000 is the price range for the houses.

Greg Dimmer spoke next and stated that he hoped that the information they have given Council will help them decide in favor of this new plan. He made the following comments: I have talked with some of you, and I would like to tell you that the vote was a tie by the Planning Commission. Three were absent. We feel we would have a better vote if they had been there. There were residents at that meeting and they were happy with the new plan. I contacted Mr. Jacobus and asked if they would like to joint venture with me and my dad. Average lot size is 11,524, which is close to the R-12 already there. The pictures you got are the houses we will be building. The side my father and I will build will be like the subdivisions we have built before. This should provide a tax basis of $137,000 minimum on each house. Most of the suggestions I hear is that they want to see bigger houses in Mount Holly, and we have met that. A good reputation is everything to us and so we have looked at this carefully. We know there are going to be developers looking at this property, and growth will happen. But you can control it with this conditional use plan.

Teresa Painter. 1125 West Catawba Avenue. I came tonight to tell and talk to you about what Mr. Rhyne just said. We want to preserve some of the history in Mount Holly. The will was written in such a way to try to save her land. I thank you for all you have done to study this proposal. We have come a long way since this started. My husband and I thank you. I still have a few issues that are school related now.

David Michael Strader, 101 Fites Creek. This has been a journey. Mr. Rhyne's family history is impressive. I have seen this matter progress. Some of the Rhyne heritage was maintained. In our subdivision we have a restriction that showed that Mr. Rhyne knew what community means. There was a flavor to this that was not right in the beginning. It was a smart thing to bring in Greg Dimmer. I know him, he is involved in Scouts. The Dimmers bring credibility and honor to this project. I do support Greg's involvement and the project overall. But I am concerned that to rezone the whole property seems to leave it open to interpretation later. I can see rezoning the Jacobus part as R-8 but leave the Dimmer section as it is. I support the plan, although traffic, schools, and the greenway issues need to be discussed. I would support this plan, but I would like the section Greg builds be definitely stated somehow so that it will have to be what they say it will be. Thank you for letting me speak and I know you will do what is best.

Councilman Helms moved to go out of public hearing, seconded by Councilwoman Harris, and carried unanimously. Mayor Hough resumed the regular meeting.

Danny Jackson stated that there is a two step process; one, to rezone, and two, to put conditional uses on the property. I have a couple of documents for Council to use if they choose to proceed. City Manager Kraus clarified for the record that if Council passes the conditional use, the developers have to use that plan they have submitted, and must use those lots and cannot make the lots smaller. Danny Jackson confirmed that is right.

City Manager Kraus stated that staff wants to add a conditional use that turn lanes be added on Catawba Avenue. Danny Jackson said that Catawba is a state road, and they have to get a driveway permit from the State, but the State will send it to the City for a comment, and we can make a comment that we want deceleration lane and turn lanes then also. Danny Jackson said that all conditional uses must be agreed upon by the developer. Mr. Kraus said that Greg Dimmer mentioned a picnic shelter in the open space, but he did not know if that is in the conditional use or not. Danny Jackson said that is up to Council if that is required or not in the conditional use permit. Councilman Moore said he believed Council should include all of these as conditions. Mr. Jacobus said they will do what DOT says. Councilwoman Harris said that DOT does not always require when we see that it needs it. We feel it needs to be required to have turn lanes. Mr. Jacobus said we showed you pictures of a picnic shelter before, but Teresa Painter objected to it, and she is the adjoining neighbor. We will do it if you would like, but we want to not step on anyone's toes. Councilman Moore asked, can we have Ms. Painter comment? Mrs. Painter said her concern was that the shelter was near the road and not near the houses which might mean that there would be uninvited people there causing trouble. Councilwoman Harris said she didn't think we should require them to do that shelter. All agreed. Mayor Hough then asked about the greenway land donation; you intend to donate, definite or not? Mr. Dimmer said he did an easement on his Creekside subdivision. Mayor Hough said he prefers for the city to own it. Mr. Kraus said if the city owns it, you control what is built there; if it is an easement, then its use may be restricted by the owner. Mr. Kraus said on the other hand, the easement helps the builder because they can count it in the impervious numbers they need for watershed regulations. Kemp Michael said you never know what the city might use the property for if they own it. Council discussed this and agreed to go with an easement for the greenway.

Councilwoman Hubbard asked a question, stating she was going to be blunt to the developers. She sees that Mr. Dimmer will do R-12, but Mr. Jacobus wants R-8, and Mr. Dimmer can build 1600 square foot minimum with brick fronts, but Jacobus can't. Why can you not do it all the same way like Mr. Dimmer is doing? Greg Dimmer said he wanted to speak to that. He said that Jacobis is taking most of the costs on his side, with the property purchase and utility lines; that will enable the Dimmers to build the 1600 and up. We pay a lot of money to buy the land and then the infrastructure is very expensive, that is why I mentioned earlier that R-8 is the zone of the future. All communities that are successful have a diversity of sizes and costs. Councilwoman Harris stated that her son is going to buy a house in Mooresville, and there are some houses $150,000 and some are $400,000 in the same neighborhood. Mr. Jacobus said that is true, many neighborhoods have different style homes with different price ranges, the mix is what makes it successful, not everyone is going to buy a $300,000 or more home. We are building for families who would rather have another bedroom or a larger family room than a brick front. If this property were not zoned on conditional uses, they could come in on R-12 lots as it is zoned now and build 1500 square foot cracker boxes; this conditional use guarantees a particular look and quality of house. Councilwoman Hubbard asked, what if you left that part of it R-8 and keep the same requirements as Dimmer. Mr. Dimmer stated that he doesn't want to be in the same price range as Mr. Jacobus; they don't want to compete. He said he needs to sell to a certain market and have Mr. Jacobus sell to a different market; he doesn't want it to be the same. Councilwoman Hubbard said we have different houses in the other subdivisions; she believes we have a market for upscale housing; she wants these to be brick; this is beautiful land and she wants to see better houses on it.

Danny Jackson said that the conditional use findings sheet has staff's responses on it. Council has to make its own findings. Mayor Hough clarified the procedure, and asked if Council wanted to proceed or take the information under advisement. Councilman Hope & Councilwoman Harris stated they were prepared to proceed.

Mayor Hough read Finding #A and the staff's response. Councilman Helms **MOVED** to approve, seconded by Councilman Hope, and carried by five ayes, and one abstain (Hubbard-conflict not declared).

Mayor Hough read Finding #B and the staff's response. Councilman McLean **MOVED** to approve, seconded by Councilwoman Harris, and carried by five ayes, one abstain (Hubbard).

Mayor Hough read Finding #C and the staff's response. Councilwoman Harris **MOVED** to approve, seconded by Councilman Hope, and carried by five ayes, one abstain (Hubbard).

Mayor Hough read Finding #D and the staff's response. Councilman Hope **MOVED** to approve, seconded by Councilwoman Harris, and carried by five ayes, one abstain (Hubbard).

Mayor Hough read Finding #E and the staff's response. Councilman Hope **MOVED** to approve, seconded by Councilman Moore, and carried by five ayes, one abstain (Hubbard).

Mayor Hough stated that all five findings of fact have been found by Council in the affirmative. The Mayor then asked Mr. Jacobus and Mr. Dimmer to state if they were in agreement with the conditions for the conditional use permit being placed by the Council, including the turn lanes, greenway, and utilities easement, in addition to all the conditions submitted with the plan in the agenda packet. Both agreed.

Danny Jackson said that Council has to vote to rezone the property if it chooses to do so, and also to authorize the conditional use permit. Attorney Kemp Michael asked Mr. Jackson if one condition should be that the property be voluntarily annexed by the city? Mr. Jacobus said they have submitted a petition for annexation. Mr. Dimmer said he thought annexation was part of this. Mr. Jackson said that the voluntary annexation petition has a separate procedure that is not included in this action tonight. Mr. Michael stated that if for some reason the property does not get annexed, they would still have to have municipal utilities because they cannot put septic tanks on R-8 zone.

Motion: Councilman Hope **MOVED** to rezone the Charles Rhyne property from R-12 to R-8 Conditional Use and authorize the conditional use permit with the conditions on the plan submitted together with the Council's conditions for turn lanes, greenway, and utilities easements. Councilwoman Harris seconded.
Vote: Six ayes. CARRIED.
Mr. Jacobus thanked the Council, staff, and the neighbors as well.

Council took a five minute recess.

PH#2 To Consider Approval of Annual Plan for Public Housing
Councilwoman Harris **MOVED** to go into public hearing, seconded by Councilman Moore, and unanimously carried. Mayor Hough recessed the regular meeting and opened the public hearing to consider approval of the annual plan for public housing upon request by Teresa Wilde, Housing Authority manager.

City Manager David Kraus stated that the City must have a plan to continue operating the public housing units per HUD guidelines. Teresa Wilde has a plan submitted, which she has prepared along with Danny Jackson and Lessie Hope. Danny Jackson said that Teresa, Lessie and our maintenance person have put in a lot of work to bring the units back up to a presentable state; the previous management did a poor job, but they have turned this around. Now they need Council to go out there and see what they have done and what they still need. Councilwoman Harris said she likes seeing the police officer nod his head in agreement. There were no comments for or against.

Councilwoman Hubbard moved to go out of public hearing, seconded by Councilman McLean, and unanimously carried. Mayor Hough adjourned the public hearing and resumed the regular meeting.

Motion: Councilwoman Harris **MOVED** to approve Res. #04-12-04B approving the plan, seconded by Councilwoman Hubbard.

<u>Vote</u>: unanimous. CARRIED.

NEW BUSINESS

NB#1 <u>To Authorize Police Department to Apply for COPS Grant</u>
City Manager Kraus reported that this item is withdrawn, because we are ineligible.

NB#2 <u>To Call for a Public Hearing to Extend the Downtown District Moratorium</u>
City Manager Kraus stated that we are still working on downtown design standards, so it will be July before they are presented, with board consideration in August or September. We need to extend the moratorium.

<u>Motion</u>: Councilwoman Hubbard **MOVED** to set the public hearing for the next regular meeting for consideration of extending the Downtown District moratorium, seconded by Councilman McLean
<u>Vote</u>: All in favor. CARRIED.

ROUND TABLE

Councilman Hope asked what the next thing would to name the new bridge. City Manager Kraus said he will discuss that on the 15th with our DOT representative.

Councilwoman Harris asked if any of Council has sent in questions for the DOT rep? Mr. Kraus said he had not received any so far.

Councilman McLean noted that the work session in June is on the 1st and he would like it to be June 8th because it is so far ahead of the regular meeting. Council will decide at the next work session.

City Manager Kraus said that Danny Jackson wants a public hearing to close an unopened portion of Costner Street, off of Hawthorne. It has never been developed or opened. Councilman McLean **MOVED** to hold a public hearing at the regular May meeting ton consider closing a portion of Costner Street, seconded by Councilman Hope, and CARRIED unanimously.

City Manager Kraus said that the state fire marshal, and the dept. of insurance, inspected our fire department, and found that we meet their requirements. In the next few years we want to get a more in depth review to reduce insurance rates for our citizens.

Mr. Kraus reported that on April 15th, the EPA will announce its decision on non-attainment areas, which might affect our DOT projects. There is more information coming from COG.

Mr. Kraus said that Danny Jackson has presented to Council, for your information, about planners talking about land use coordination in the region; this is a draft.

Mr. Kraus said that Gastonia's community development department wants an interlocal agreement to coordinate efforts to get HUD funds for home ownership programs.

Mr. Kraus stated that Mr. Gandy sent a letter to us which was put in the agenda packet, and he asked for Council comments on it, if they have any. Mayor Hough said he met with Mr. Gandy and Mr. Guignard, who has been working on the depot, and they would like to bring back a proposal for the land and some sketches regarding a utility department office. Councilwoman Harris asked where are we in building Mike Santmire's new building (street department). Mr. Kraus said the surveyors are tying into the Duke Energy survey, so now they can proceed since that has now been done. Mr. Ritter, the surveyor, should finish this week. Councilman Hope said he doesn't want the process to linger, whether we go another avenue or not. Mr. Kraus said our goal is to have David Creech design a building that can go at any location. Councilman Hope recalled that Council intended to have this done by August. Mayor Hough said we may want to preserve that land for a river walk, and he would appreciate input. Councilman Hope said we have to build a garage also.

Mayor Hough reminded Council that the DOT rep would be here Thursday for lunch, and will be taking a tour around town as well. On April 15 we are also meeting with Woolpert at 6:30 PM with public input from people who have served on committees in the past regarding streetscapes.

ADJOURN

There being no further business, the meeting was adjourned, upon motion duly made by Councilman Moore, seconded by Couuncilman McLean and carried unanimously.

9:05 PM

Clerk

Bryan M. Hough

Mayor

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cpm