

an agreement between Mr. Karas and The City of Marion upon the following conditions:

1. That no permanent structure be constructed in the portion of right-of-way owned by the City of Marion.
2. That the City of Marion may, at any time, cancel the agreement if the right-of-way is needed by the City and that all structures or other developments to the portions of right-of-way be removed at the expense of Mr. Karas.
3. That Mr. Karas would be liable for any and all damages to the portion of property owned by the City of Marion.
4. That if Mr. Karas should sell the business, that this agreement would be transferred to the new owners with the above stated conditions in effect.

DOWNTOWN MERCHANTS ASSOCIATION - SIDEWALK BENCHES: Mr. Tony Lynch, President of the Downtown Merchants Association appeared before Council and stated that the Downtown Merchants Association would like to place sidewalk benches on Main Street.

Mr. Lynch stated that the organization had made a profit during the 4th of July Events and that they would like to place the money back into the downtown by purchasing sidewalk benches for the downtown area. Mr. Lynch presented an example of the type bench they are proposing to buy. Mr. Lynch stated that the Downtown Merchants Association would like for the City to place the benches and bolt them to the sidewalk so that they cannot be removed. He also stated that the organization would be willing to provide more benches at a later date. A short discussion followed.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to install the sidewalk benches as proposed and that the Street Committee, Chief of Police, the Downtown Development Director and President of the Downtown Merchants Association meet and decide on placement of the benches.

RESERVOIR PROJECT - CHANGE WORK ORDER: Mr. Gary McGill, City Engineer appeared before Council concerning Change Work Order #3 for the Reservoir Project. The Change Work Order consisted of three changes as follows:

1. Valve Vault B - Furnish and install mechanical joint pipe, fittings and valves per the layout shown on Sheets 4 and 8 of the plans in lieu of the same flanged joint material. Contract Price Increase: \$1,250.00. Justification: Valve Vault B to be deleted due to conflicts with final site grading elevations.
2. Site Improvements - Delete final site grading and all crushed stone base on access road and around tank as shown on the plans. Contract Price Decrease: \$3,150.00. Justification: Owner wishes to perform this work.
3. Demolition - Demolish and dispose of Section C of the existing concrete storage tank. Contract Price Increase: \$27,890.00. Justification: Remove potential safety hazard and health hazard from site.

Mr. McGill stated that he had talked with Evans, Eller and Associates concerning the demolition of Section C which had been previously deleted from the contract at a considerably lower cost. Mr. McGill stated that the cost had increased because the vehicles would have to be remobilized back to the site. Mr. McGill stated that the latest cost also included removal of the debris from the site where the original contract had specified crushing the concrete and covering it with dirt, and not actually removing it from the site.

Councilman Stronach asked if an additional tank would be built in this area at a later date? Mr. McGill stated that another site would be most likely be considered, but that this area would be utilized at some time in the future.

Councilman Ayers asked if the old section could not be left until the new tank is put into service? Mr. McGill stated that the cost would be less now and that if another contractor demolished the old section, they would be liable for damages, but that they would be without the benefit of the bonding company which added even more protection to the City in the event of damage during the actual construction.

Mr. McGill stated that a decision also needed to be made concerning the steel tank. He stated that there were four options: 1. To remove the tank; 2. To drain and leave the tank; 3. To raise the elevation of the tank and; 4. To add an altitude valve. He stated that his recommendation would be to remove the tank and to sell it as is. Mr. McGill stated that there is a market for this type tank. The discussion continued. This item was to be placed on the next agenda.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to accept Change Work Order #3 - Reservoir Project as submitted.

REPORT - SPRING STREET CULVERT: Mr. McGill presented a preliminary report to Council concerning the renovation of the bridge on Spring Street. The City Manager explained that a portion of the bridge had been condemned at the last inspection.

Mr. McGill stated that he had not looked at the bridge personally and that he would like to meet with the Public Works Director before he made a formal recommendation. A short discussion followed.

Councilman Little suggested that the matter be tabled until more information is available. Council was in agreement.

FIREMEN'S ASSOCIATION - BURN BUILDING AND LEASE AGREEMENT: Mr. Carroll Hemphill, Director of McDowell Emergency Management Agency and Mr. Bob Norwood, President of McDowell County Firemen's Association appeared before Council concerning the proposed Burn Building. The Burn Building is proposed to be constructed on property owned by the City of Marion which the Firemen's Association currently leases. Mr. Hemphill presented a lease agreement to Council for a period of twenty-five years for the property.

The City Manager stated that he would like to ask Mr. Gary McGill's opinion of the location of the building in relation to the Water Filter Plant and the plans for the property at the Filter Plant since the Burn Building is proposed to be constructed on this property.

Mr. McGill stated that he was very concerned that future expansions and regulation changes which may require the City to have a need for the property where the Firemen's Association proposes to build the Burn Building. He stated that he had no way of knowing what future regulations would require, but if the City were to sign the lease agreement for twenty-five years, he would like to suggest that the agreement have an additional clause where the cost of the building was prorated and if a need for the property came up, the City could reimburse the Firemen's Association for a portion of their cost.

The City Manager stated that the City also owned land across the street and asked if that location would be suitable for the structure. Mr. McGill stated that he would have no concerns if the building was constructed across the street. Mr. Hemphill stated that he felt that the Firemen's Association would not object to the site across the street. He stated that the only problems would be that water lines would need to be placed across the street. The discussion continued.

Councilman Ayers suggested that the City Manager and representatives from the Firemen's Association meet and look at the property and report back to Council at the next meeting. Council was in agreement.

REPORTS:

1. FIRE HYDRANTS - PLEASANT GARDENS AREA: The City Manager stated that he had received a report from Mr. Glen Sherlin, Public Works Director concerning the installation of fire hydrants in the Pleasant Gardens area. Mr. Sherlin had stated in the report that they were behind schedule, but that he planned to take three to four days and work in the area to get them back on schedule. The report stated that if the weather was permitting and if there are no major problems, the work should be completed by January 1989.

2. DRIVEWAY ORDINANCE: The City Manager stated that the City already had a driveway ordinance that was adequate. (Ref: Minutes of July 19, 1988). The ordinance states that the owner should bear the cost and that outside contractors, if employed by citizens to construct driveways in the City had certain specifications to follow.

3. BID OPENING - FIVE LANE WASTE TREATMENT FACILITY: The City Manager stated that the Bid Opening for the Five-Lane Waste Treatment Facility would be held on September 1, 1988 at 10:00 A.M. in the City Council Chambers.

4. RIGHT-OF-WAY AGREEMENT - MR. CHARLES FISHER: The City Manager stated that a meeting to obtain an easement with Mr. Charles Fisher had been set for 7:00 P.M. on Thursday, August 4, 1988. The City Manager stated that Mr. Joel Storrow of Jensen Engineering would be present to talk with Mr. Fisher.

5. NORTH CAROLINA LEAGUE OF MUNICIPALITIES - ANNUAL CONVENTION: The City Manager stated that the annual convention for the League of Municipalities would be on October 2 through October 4, 1988 in Asheville, North Carolina.

6. NATAT - ANNUAL MEETING: The City Manager stated that a decision needed to be made concerning the dates which they would leave and return from the National Association of Towns and Townships Annual Convention. The persons who plan to attend the convention agreed that they should leave Marion on Wednesday morning, September 7, 1988 and return on Saturday, September 10, 1988.

7. TRAFFIC STUDY: The City Manager stated that two persons from the


Department of Transportation were in Marion conducting a traffic study. He stated that the persons would be looking at the equipment, the lead and lag on the pedestrian signals, left turns and potential placement of traffic lights. He stated that the information gathered would be compiled and returned to the City in a finalized report.

COMMENTS - COUNCILMAN AYERS: Councilman Ayers stated that he would like to report a grown-up lot near Davis Garage at the corner of Court and Main Streets. He stated that this area needed to be cleaned up and would like to request that the area be checked by the Zoning Administrator and Building Inspector.


EXECUTIVE SESSION - CONSIDERATION - PROPERTY ACQUISITION: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to go into Executive Session to discuss a possible property acquisition.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to return to Regular Session.

ADJOURNMENT: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

August 23, 1988

The City Council for the City of Marion met in Special Session on Tuesday night, August 23, 1988 at 7:00 P.M. in the City Council Chamber. The regular scheduled meeting on Tuesday, August 16, 1988 was rescheduled for this date due to a majority being unable to attend.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, Angus Stronach, Joe Tyler, John Cross, and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; E. P. Dameron, City Attorney; LuAnn Allison, Secretary; Aaron Adams, Street Supervisor; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator, Water Filter Plant; Robert Parker, Administrative Assistant Trainee; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Dr. Robert Boggs, McDowell Technical Community College; Mr. Richard Sugg, Arrowhead Trail; Mrs. Lee Lynch, Downtown Development Director; and Fred Williams, Duke Power Company.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the August 2, 1988 meeting.

BASKETBALL TOURNAMENT - COMMUNITY BUILDING GROUNDS - MR. RICHARD SUGG: Mr. Richard Sugg of Arrowhead Trail appeared before Council to present a proposal of a basketball tournament at the basketball courts at the Community Building. Mr. Sugg stated that he would like to conduct a tournament of sixteen to thirty-two teams and that he would need the facility from approximately 10:00 A.M. to 7:00 P.M. He stated that he would like to use the facility September 24th and have October 1 as a rain date. A discussion followed.

Councilman Little stated that he liked the idea, however, he would like to see an insurance policy from Mr. Sugg and a waiver of liability for the City in case of an accident.

Mr. Sugg stated that he would purchase an insurance policy for the tournament and that he would be willing to follow any rules and/or guidelines set by the City.

Councilman Ayers stated that he had mentioned the proposed event to several "regulars" at the court and that there seemed to be a great deal of interest.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to allow Mr. Richard Sugg to conduct a basketball tournament at the basketball courts at the Community Building on September 24, 1988 with October 1, 1988 as a rain date provided that Mr. Sugg presents proof of insurance and

a waiver of liability of the City in the case of an accident to the City Manager and City Attorney for their approval prior to the tournament.

DOWNTOWN MERCHANTS ASSOCIATION - SOUTHERN RAILWAY DEPOT - POSSIBLE USE: Dr. Robert Boggs of McDowell Technical Community College appeared before Council concerning a possible use of the Southern Railway Depot.

Dr. Boggs stated that the College had, for some time, been looking for a center for the downtown area. He stated that he was interested in the depot and that it would be used for refresher courses for persons in the downtown area. He stated that grants could be available to renovate the building and that they would use it as a project for the light construction classes at the college providing hands on experience with them renovating the building.

Dr. Boggs stated that he was going to meet with several staff members later this week to discuss the matter in detail and would present it to the Board of Trustees at a later date once the decision to use the building had been justified. Dr. Boggs also stated that the College would provide the insurance coverage for the building and would comply with the outlines that Southern Railway had stipulated for taking over the building.

Mrs. Lee Lynch, Downtown Development Director stated that they needed permission from Council to proceed with getting the building turned over to the City and then the City would turn the building over to McDowell Technical Community College for their renovation and use.

The City Manager stated that the first step in securing the building was to have a definite use for the building and then to proceed with getting the building turned over to the City.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to proceed with getting the Southern Railway Depot turned over to the City if McDowell Technical College could use the building as outlined above.

DOWNTOWN MERCHANTS - REQUEST TO USE AMPLIFIED MUSIC: The City Manager stated that he had received a request from the Downtown Business Association for amplified music on the Courthouse Lawn on September 2, 9, and 16, 1988. He stated that the previous dates during the month of August for the Courthouse Country Music had been canceled due to rain and that they would like to reschedule the events at this time.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to allow the Downtown Merchants Association to have amplified music on the Courthouse Lawn on September 2, 9, and 16, 1988.

MR. FRED WILLIAMS - REQUEST - RAISE SPEED LIMIT ON STATE STREET: Mr. Fred Williams of Duke Power Company appeared before Council and requested that the speed limit on State Street be raised to 35 MPH (thirty-five miles per hour) from Garden Street to Clay Street.

The City Manager asked if the request could be changed from the railroad tracks to Clay Street. Mr. Williams had no objections. The City Manager stated that he received numerous complaints from the noise of cars and trucks passing over the railroad tracks. A discussion followed.

Councilman Ayers stated that he felt that the Street Committee and Police Chief should look into the situation. Council was in agreement.

BOARD OF ELECTIONS - FORMAL APPOINTMENT - MR. ZEB HAWKINS: The City Manager stated that Mr. Zeb Hawkins had agreed to fill the unexpired term of Mr. Tony Yancey on the Board of Elections and needed to be formally appointed.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to appoint Mr. Zeb Hawkins to the Board of Elections to fill the unexpired term of Mr. Tony Yancey. Said term to expire on June 30, 1989.

FIREMEN'S ASSOCIATION - BURN BUILDING AND LEASE AGREEMENT: The City Manager presented a proposed Lease Agreement for the property adjacent to the Water Filter Plant which the Firemen's Association currently leases.

The terms and provisions of this lease agreement are as follows:

1. This agreement shall remain in full force and effect for a period of 25 years from the date here of, and shall continue in effect unless and until it is thereafter terminated by the City Council of the City of Marion, or the McDowell County Firemen's Association, Inc.
2. It is understood and agreed, that the Lessee will expend a considerable sum of money in constructing a "Burn Building" on the demised premises and that this lease will not be terminated by the City Council of Marion, North Carolina for the term of the lease unless

the demised premises are found to be necessary in connection with expansion of the City Water Filtration Plant Facilities. If such expansion proves to be necessary the City of Marion will reimburse the Lessee, 1/25 of the cost of the Burn Building for each year left until the expiration of the lease.

3. The Lessee shall advise the Lessor, in advance, of any and all activities to be conducted on the property and the Lessor shall have the right to prohibit any activity which may be detrimental to the safety, health and welfare of the citizens of the City of Marion and/or McDowell County.

4. The Lessee shall have the use of the demised premises without the payment of any rental to the Lessor so long as is, for the training of members of the Marion, North Carolina McDowell County, or emergency personnel authorized to use the facility by the Lessee.

5. The Lessee agrees to hold the City of Marion, its elected officials, and employees, harmless from any suit by any individual, company or corporation for personal or property damage claimed or incurred through the use of the said property by Lessee. The Lessee further agrees to keep and maintain liability insurance covering Lessee's operations in such amount as may be acceptable to the City Council.

6. In connection with Lessee's use of the demised premises, Lessee agrees that all persons using said property will be required to sign a waiver in a form substantially as shown on Exhibit "A" attached hereto and incorporated herein by which may be licensed to use the facility, will be first be required to sign a lease and acknowledgement in a form substantially as shown on Exhibit "B" attached hereto and by reference made a part hereof.

7. That all prior leases on said demised property between the Lessor and Lessee are hereby terminated.

The City Manager stated that a portion of the sludge lagoons recently constructed at the Water Filter Plant was constructed over the boundary line of the current lease with the Firemen's Association. He stated that he would like to have the property line re-defined so that the sludge lagoons would be on property not included in the lease. Council was in agreement.

The City Manager stated that the presentation of this document to the Firemen's Association was pending the approval of Council and the City Attorney. The City Attorney stated that he had read over the document and that he had no corrections.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to re-define the boundary line of the property and present the document to the Firemen's Association for their approval.

RESERVOIR PROJECT - STEEL TANK - DISPOSITION: The City Manager stated that a decision needed to be made with regard to the disposition of the steel tank at the Reservoir. He stated that there were several options as follows:

1. Keep tank in service, but to use both tanks, the steel tank would have to be raised ten feet at an approximate cost of thirty to forty thousand dollars.
2. Install an altitude valve. This could cause flooding of some areas if the valve failed.
3. Install piping to the tank so that it could be used as a backup. He stated that the tank would not be filled except when needed.

Mayor Clark stated that it was frightening to not have a backup system and he felt that money should be appropriated in next year's budget to raise the tank. He also stated that he felt that the tank should be tied in so that it could be used. The discussion continued.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted to pipe the steel tank so it can be used for a backup system.

COMMUNITY BUILDING - PROPOSED PARKING LOT: The City Manager stated that he would like to gravel the area designated to be a parking lot at the Community Building before winter weather and then to pave the parking lot in the spring. He stated that money had been set aside in the budget to pave the area which would provide twenty parking spaces.

The discussion continued. A question was raised concerning the landscaping. The City Manager stated that red-tip perennials had been placed along the fence and proposed area for the parking facility, but that future landscaping was at a standstill until a decision on the parking lot had been made.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council

voted to develop the parking lot at the Community Building as suggested.

5 - LANE WASTE WATER PLANT - EASEMENTS: The City Manager stated that they were in the process of obtaining easements for property at the 5 - Lane Waste Water Plant.

The City Attorney stated that he was preparing the easements and they should be completed by Friday or Monday (August 26 or 29, 1988).

CITY PARKING LOT - INTERSECTION OF LOGAN & HENDERSON STREETS - PROPOSED CHANGE IN LAYOUT: The City Manager stated that the exit in the City Parking Lot located at the intersection of Logan and Henderson Streets created problems by persons trying to enter the lot through the exit. He stated that he would like to propose that a planter be constructed in the exit blocking the incoming traffic and re-route the traffic so that it would travel one-way.

The City Manager presented several drawings of planters prepared by Downtown Development Director, Lee Lynch. A short discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted to construct a planter at the exit of the City parking lot at the intersection of Logan and Henderson Streets to block the incoming traffic and re-route the traffic in a one-way direction to a new exit.

RESOLUTION - OPENING AND MAINTAINING SEVERAL DEPOSIT AND/OR CERTIFICATE ACCOUNTS - NORTH CAROLINA NATIONAL BANK - INTERNAL SERVICE FUND: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt a Resolution entitled Opening and Maintaining a Deposit and/or Certificate Account - North Carolina National Bank - Internal Service Fund.

A copy of the Resolution can be found in the safe under document #R-88-8-23-1.

RESOLUTION - OPENING AND MAINTAINING A DEPOSIT AND/OR CERTIFICATE ACCOUNT - NORTH CAROLINA NATIONAL BANK WATER AND SEWER FUND: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt a Resolution entitled Opening and Maintaining a Deposit and/or Certificate Account - North Carolina National Bank - Water and Sewer Fund.

A copy of the Resolution can be found in the safe, filed under document # R-88-8-23-2.

RESOLUTION - OPENING AND MAINTAINING A DEPOSIT AND/OR CERTIFICATE ACCOUNT - NORTH CAROLINA NATIONAL BANK - GENERAL FUND: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the Resolution entitled Opening and Maintaining a Deposit and/or Certificate Account - General Fund.

The Resolution can be found filed in the safe under document # R-88-8-23-3.

NATIONAL LEAGUE OF CITIES - ANNUAL MEMBERSHIP DUES: The City Manager stated that he had received a bill for the National League of Cities Dues. He stated that the amount for the year was \$556.00. He asked Council if they wished to renew their membership or wait until they had attended the National Association of Towns and Townships annual meeting on September 7 through 10, 1988. The dues are not due until after the NATaT annual meeting.

Councilman Ayers suggested that they wait to pay the annual dues until after they had attended the National Association of Towns and Townships Meeting.

EMPLOYEE PICNIC - PROPOSED DATES: The City Manager stated that it had been suggested that an Employee Picnic be held again this year. He stated that the pool and ball fields at the Recreation Center were available on August 28, 1988 and the time of 4:00 P.M. until 8:00 P.M. had been suggested. A discussion followed.

Mr. Robert Parker, Administrative Assistant Trainee stated that Mr. Wayne Tucci, Recreation Director had stated that he would leave the swimming pool open until September 11, 1988 if the City would like to use it on that date.

Council agreed to have an Employee Picnic on Sunday, September 11, 1988 from 3:00 P.M. until 7:00 P.M. The employees, their spouses and children are invited to attend.

REPORTS:

1. OFFICE SPACE FOR DOWNTOWN DEVELOPMENT DIRECTOR: The City Manager stated that office space in the City Hall Building was becoming limited. He stated that Mr. Robert Parker, Miss Rhonda Owens and Mrs. Lee Lynch shared one office. He stated that he proposed to partition off a portion of the two offices that the Supervisor of Elections and Merchants Association used. He stated that this space would be used for Mrs. Lynch. He asked if Council had any objections. They did not object.

2. COUNCILMAN LITTLE - REPORT FROM OFF PREMISE ADVERTISING COMMITTEE: Councilman Little stated that he had given each member of Council a report of the findings and meetings of the Off Premise Advertising Committee. Councilman Little stated that he would keep Council informed on the findings of the Committee.

3. COUNCILMAN STRONACH - COMMENTS - PLANT BARRELS - DOWNTOWN AREA: Councilman Stronach stated that he had noticed that several of the plant barrels placed on Main Street and around the downtown area had dead flowers in them and that they needed to be replaced.

Downtown Development Director, Mrs. Lee Lynch stated that she would look into the matter.

4. FILM - WATER SYSTEM AND NEW DEVELOPMENTS: The City Manager presented a video film prepared by Mr. Robert Parker, Administrative Assistant Trainee to Council. The film contained the water system condition in relation to shortage of water. The film contained a comparison of the situation in February 1988 and now. The film also contained a documented presentation of the water system.

5. STREET COMMITTEE - HANDICAPPED PARKING: The City Manager stated that the Street Committee had met and looked at Handicapped Parking on Court Street. He stated that they had decided to place a handicapped parking space in the last space on the right hand side next to the teller machine at the corner of Court and Garden Street. He stated that Mr. Scotty Willis of the Disabled American Veterans had not been back in touch with him as to where the Disabled Veterans would like to have handicapped parking spaces designated. (Reference Minutes of August 2, 1988).

6. SIDEWALK RENOVATION - McDOWELL COUNTY COURTHOUSE: The City Manager stated that Mr. Aaron Adams, Street Supervisor and Mr. Chuck Abernathy, County Manager had looked at the sidewalk on Court Street next to the County Administration Building. He stated that they had agreed to have the City take out the sidewalk and then have the County replace it. The City Manager stated that the sidewalk contained chips of material to match the building and that it would be considerably more expensive to replace.

7. EMERGENCY GENERATOR - PROGRESS: Buck Byrd, Chief Operator, Water Filter Plant stated that the electricians had been working at the Water Filter Plant and that the Emergency Generator was expected to arrive next week.

8. STATE STREET - LIGHT POLES: The City Manager stated that the poles for the traffic signals were in on State Street. He stated that the line for the signals needed to be moved and the signal box needed to be moved over before the project could be completed.

9. MUNICIPAL CODE CORPORATION - CODIFICATION OF ORDINANCES: The City Manager stated that the attorney from Municipal Code Corporation would be in Marion on September 12 and 13, 1988 to go over each section of the Code with the respective department heads.

10. CERTIFICATION - UDAG PROGRAM: The City Manager stated that the City had been certified for the UDAG (Urban Development Action Grant) Program supporting an industry by the Committee of 100.

11. D.O.T. MEETING - BYPASS: The City Manager stated that there would be a meeting with the Department of Transportation concerning the slope of the Marion By-Pass and the at grade crossing at Hwy 70. The meeting is to be held on Wednesday, August 31, 1988 at 1:00 P.M. in the County Commissioners Board Room.


12. CITY REPRESENTATIVE - McDOWELL CLEAN COUNTY SYSTEM: The City Manager stated that a staff member from the City needed to be appointed to the McDowell Clean County System. He stated that he would like to appoint Mr. Robert Parker to the position. Council had no objections.

13. JENSEN ENGINEERING - 5 LANE WASTE TREATMENT FACILITY PROJECT: The City Manager stated that Mr. George Jensen had billed the City for almost all of the money appropriated in the project for engineering fees. Councilman Stronach asked if Mr. Jensen was aware of the situation. The City Manager stated that he had telephoned him and discussed the matter. Councilman Tyler suggested that a letter be written to Mr. Jensen so that the situation would be documented in writing as well.

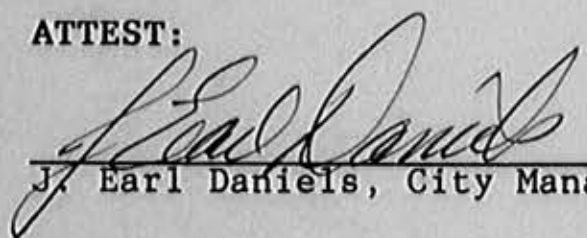
EXECUTIVE SESSION - POSSIBLE PROPERTY ACQUISITION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to go into Executive Session to discuss a possible property acquisition.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to reconvene in Regular Session.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adjourn.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

September 6, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, September 6, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everett Clark; Councilmen Robert Ayers, Joe Tyler, Steve Little, Angus Stronach, and John Cross.

OTHERS PRESENT: J. Earl Daniels, City Manager; E. P. Dameron, City Attorney; LuAnn Allison, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS: Mr. Jason Watts, Boy Scout Troup 210; and Mr. Joel Storrow, Jensen Engineering.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the August 23, 1988 meeting.

MR. JASON WATTS - BOY SCOUT TROUP 210: Mayor Clark stated that he would like to recognize Mr. Jason Watts. Mayor Clark stated that Mr. Watts was required to attend one City Council meeting and obtain a copy of the City Budget as part of the requirements for his Citizenship Badge. He stated that when he got this badge, he would be eligible for the Eagle Scout award.

FIREMEN'S ASSOCIATION - LEASE AGREEMENT: The City Manager stated that he had sent a copy of the lease agreement for a portion of the Filter Plant property to the Firemen's Association for their approval. He stated that he had added an additional provision as follows:

The leasee agrees to maintain the property and keep it free from trash, junk and other debris. Any vehicles used for training purposes shall be removed from the property within seven days following the training exercises. The grass shall be mowed on a regular basis during summer months and shall not exceed twelve inches in height.

The City Manager stated that he had not received a response from the Firemen's Association.

STATE STREET - SPEED LIMIT: The City Manager stated that he had talked with the Street Committee individually and the Chief of Police concerning changing the speed limit on State Street from 25 miles per hour to 35 miles per hour. (Ref: Minutes of 8/23/88).

Police Chief Gilsdorf stated that he had gone through his reports on State Street and that the street had its share of accidents. He stated that several speeding citations had been written but that in each case, the citation had been in excess of forty miles per hour. He stated that the area being considered was only two tenths of a mile. He stated that he had talked with two of the four sergeants in the department and everyone had agreed not to recommend that the speed limit be changed.

The City Manager stated that there was one nursery in the area and that several small children lived in the area. He stated that he was in agreement with Chief Gilsdorf not to change the speed limit.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to accept the recommendation of Chief Gilsdorf to leave the speed limit at twenty-five miles per hour on State Street. Council also requested that the speed limit be fully enforced in the area.

DEPUTY TAX COLLECTOR - APPOINTMENT: The City Manager stated that he would like to recommend that Miss LuAnn Allison be appointed as Deputy Tax Collector. He stated that Miss Allison issued Privilege Licenses and helped in other capacities in the Tax Department.

Upon a motion by Councilman Little, seconded by Councilman Tyler, council voted unanimously to appoint Miss LuAnn Allison as Deputy Tax Collector.

BID TABULATIONS - 5 LANE WASTE TREATMENT FACILITY: Mr. Joel Storrow of Jensen Engineering appeared before Council and presented the bid tabulations of the 5 Lane Waste Treatment Facility to them. The bids were as follows:

CONTRACT 1.

<u>COMPANY AND ADDRESS</u>	<u>SECURITY</u>	<u>BID AMOUNT</u>
1. Buckeye Const. Canton, NC	Bid Bond	\$613,417.00
2. Ramey, Inc. Winston Salem, NC	Bid Bond	674,726.00
3. Steppe Const. Mill Springs, NC	Bid Bond	491,873.00
4. Trans-State Const. Denver, NC	Bid Bond	739,180.00
5. Ronny Turner Const. Conover, NC	Bid Bond	745,985.00
6. Wheeler Const. Weaverville, NC	Bid Bond	486,290.00

CONTRACT 2.

1. Crowder Const. Charlotte, NC	Bid Bond	\$645,300.00
2. Evans, Eller, & Assoc. Statesville, NC	Bid Bond	764,600.00
3. Hickory Const. Hickory, NC	Bid Bond	629,475.00

Mr. Storrow stated that the low bids were from Wheeler Construction on Contract 1 and Hickory Construction on Contract 2. He stated that he had checked references for both places and had received very favorable recommendations. He stated that he would recommend awarding the contracts to the low bidders.

Mr. Storrow stated that the project was over budget approximately \$113,765.00 if the contract was awarded to the low bidders. He stated that the City could cut up to twenty-five percent of each contract and still be within the contract requirements. A discussion followed.

Councilman Stronach suggested that a special meeting be held next week to discuss the contract. Tuesday, night, September 13, 1988 at 7:00 P.M. was agreed on by Council.

PARKING PENALTIES - PROPOSED CHANGES: Police Chief Gilsdorf stated that he would like to recommend that parking fines be increased from one dollar to five dollars. He stated that he would also like to start a program which would encourage offenders to pay the fines since the money would go directly to the school system.

Councilman Little stated that he was in favor of the increase because it may discourage potential violators.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to increase the parking fines from one dollar to five dollars.

Chief Gilsdorf asked the City Attorney if he thought it would be a problem to write the amount on the ticket forms until new forms were printed. The City Attorney did not see any problems.

A question was asked concerning the amount of fines remitted to the school. The City Manager stated that one check was issued each year after the annual audit for the total amount of fines collected which is determined in the audit. The City Attorney stated that he thought the court had determined an amount that could be retained for administrative expenses. The Police Chief stated that he would look into the matter.

UNITED WAY - REQUEST FOR PAYROLL DEDUCTION OF CONTRIBUTIONS:

Police Chief Gilsdorf stated that he was the City Representative for the United Way and would like to request payroll deductions for the contributions. He stated that he worked closely with the organizations which the United Way supports. He

stated that he had talked with both the City Manager and the Bookkeeper and that they could see no problems if the spaces on the computer to enter the deduction was available. A short discussion followed.

The City Manager stated that he wanted to bring items of this nature to Council for their approval since the space on the checks and computer was limited if other organizations made similar requests.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to authorize payroll deductions for the United Way if space on the Computer and checks was available.

DOWNTOWN MERCHANTS ASSOCIATION - REQUEST - SIDEWALK SALE: The City Manager presented a letter from Mrs. Lee Lunch, Downtown Development Director to Council. The letter was on behalf of the Downtown Merchants Association requesting a sidewalk sale in conjunction with Main Street Week and The Mountain Glory Festival on October 9 - 15, 1988.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to allow the Downtown Merchants Association to conduct a sidewalk sale during the week of October 9 - 15, 1988.

CHAMBER OF COMMERCE - REQUEST - MOUNTAIN GLORY FESTIVAL: The City Manager [presented a letter written to Chief Gilsdorf concerning the Mountain Glory Festival to Council. The letter requests permission to block Main Street between Court and Henderson Streets on Saturday, October 8, 1988 from 6:00 A.M. to 9:00 P.M. Chief Gilsdorf stated that he would like to change the times to 5:30 A.M. to 9:30 P.M. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow the Chamber of Commerce to block Main Street from Court Street to Henderson Street from 5:30 A.M. to 9:30 P.M. on Saturday, October 8, 1988 for the Mountain Glory Festival.

REPORTS:

1. POLICE CHIEF - PARADE REQUEST - TITAN HOMECOMMING:

The Police Chief stated that he had received a request for the homecoming parade on Thursday, September 29, 1988 during the hour of 6:00 P.M. to 7:00 P.M. He stated that he wanted Council to be aware of the time and date.

2. POLICE CHIEF - PARADE/DEMONSTRATION PERMIT: The Police Chief stated that he had been contacted by Burger King to contract an officer for a "Street Dance/Battle of the Bands" proposed for Saturday, September 10, 1988. The Police Chief stated that he asked them to fill out a Parade/Demonstration Permit since they expected a crowd of one thousand but not more than two hundred at a time.

The Police Chief stated that he could not find a specific reference to this type activity in the Ordinances and would like to ask the guidance of Council. A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to allow a "Street Dance, and Battle of the Bands" with the following stipulations: 1. That the noise level is kept at an acceptable level; 2. That the activities cease at 11:00 P.M.

3. PUBLIC WORKS DIRECTOR - REPORT ON STORAGE TANK: Mr. Glen Sherlin, Public Works Director stated that the new storage tank on Summit Street had been filled but there was a small leak at the bottom. Mr. Sherlin stated that the Crom Corporation who constructed the tank was supposed to send divers to the site to check on the problem.

4. APPOINTMENTS TO THE GRIEVANCE COMMITTEE: The City Manager stated that Mayor Clark had made the following appointments to the Grievance Committee: Arthur Edwards to replace Ernie Stewart, term expiring 9/22/90; Will Twitty to replace Frank Wilkerson, term expiring 6/30/91; Lee Dillingham to replace Dawn Plemmons, term expiring 6/30/91; and Sharon Hogan to replace Lovina Smith, term expiring 6/30/91.

5. PERSONNEL DIRECTOR - APPOINTMENT: The City Manager stated that Mayor Clark administered the Oath of Office of Personnel Director to Mr. Robert Parker. He stated that Mr. Parker would be in charge of all personnel matters.

6. PURCHASING AGENT - APPOINTMENT: The City Manager stated that Mayor Clark administered the Oath of Office of Purchasing Agent to Mrs. Sharon Hogan. He stated that Mrs. Hogan would be in charge of all purchasing for the City.

7. GARBAGE BILLING - INSTITUTIONAL: The City Manager stated that school had started again and that the two schools in the City Limits would be billed for all pick-ups as outlined in the Solid Waste Ordinance.

8. LAW ENFORCEMENT/PUBLIC OFFICIALS LIABILITY INSURANCE: The City Manager stated that the liability insurance policy for Law Enforcement/Public Officials had expired. He stated that the insurance had been purchased from the Hunt Agency for \$10,785.00. The City Manager stated that the coverage consisted on one

million dollar limits per officer/official per occurrence.

9. NEW POLICE OFFICERS: The Police Chief stated that two officers, Mr. Tim Squires and Mr. Mike Fox had been sworn in earlier today and that Mrs. Pam Cline had filled the position of dispatcher.

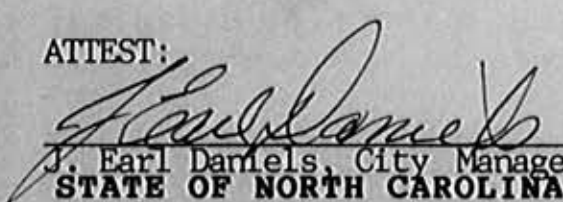
EXECUTIVE SESSION - POSSIBLE PROPERTY ACQUISITION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to go into Executive Session to discuss a proposed property acquisition.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to return to Regular Session.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to purchase property from Mr. Fred Boyd at \$3,500.00 per acre based on survey. The property is located off Rutherford Road next to the City Warehouse property.

ADJOURNMENT: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adjourn.

ATTEST:


J. Earl Daniels, City Manager/Clerk
STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION


A. Everette Clark, Mayor

September 13, 1988

The City Council for the City of Marion met in Special Session on Tuesday night, September 13, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, Angus Stronach, Steve Little, and Joe Tyler.

BOARD MEMBER ABSENT: Councilman John Cross.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Allison, Secretary; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Mr. George Jensen, Jensen Engineering.

Mayor Clark called the meeting to order. The purpose of the Special Called Meeting was to discuss the proposed 5-Lane Waste Treatment Facility and to go over the bids which were received on the project.

The City Manager stated that as the project stands now, it was approximately \$190,815.00 over budget. He stated that money could be taken from the contingencies account and put into the construction account for the project which would reduce the amount needed for construction. He also stated that he could meet with the auditor to see what fund balance was available to the City to add to the project.

Mayor Clark stated that he wanted to be careful about spending the City's Fund Balance which may be needed in case of an emergency or an unexpected expense.

Councilman Stronach stated that he did not want to cut the project in any manner that the City had an obligation in the area and that he felt that the obligation must be met.

The City Manager stated that in addition to the bids received running over budget, that there had been indications that there would be additional engineering fees for inspection of the project.

The City Manager asked if Council wished for Gary McGill of McGill Associates to check the plans and specifications to see if he could foresee any additional expenses or if he had any problems with the plans. Council agreed to discuss the matter at a later date.

Mr. George Jensen of Jensen Engineering appeared before Council to explain the costs of the project.

The City Manager asked Mr. Jensen if the amount set aside in the budget for site preparation was included in the construction cost in the bids. Mr. Jensen stated that the site preparation was included in the construction cost in the bids received.

Mr. Jensen was asked if there would be additional fees for an inspector for the project. Mr. Jensen stated that there would be additional fees for a full time inspector. He stated that the inspector would be there during all the

construction process, especially in the beginning.

Mayor Clark stated that he was concerned about change work orders or other additional costs which would come up at a later date. Mr. Jensen stated that he did not see a need for change work orders and that he felt that nothing significant had been left out of the project.

Councilman Little stated that he was terribly dissappointed that Council had not been made aware that the project was running over budget. He stated that if they had known earlier that more money could have been set aside in the budget.

Councilman Stronach stated that the last estimate that Council had received was when Joel Storrow of Jensen Engineering was present for a meeting and they talked about adding lines to serve the Harvest and the Shopping Center and Mr. Storrow stated that he still felt the project would be in line with the amount budgeted.

Mr. Jensen stated that the last estimate he had was 1.1 million for the project. Council asked if that figure was given to them. Mr. Jensen stated that it was an in-house estimate.

Mr. Jensen stated that one additional cost was the upgrading of the project from 100 thousand gallon per day capacity to a 150 thousand gallon per day capacity. He stated that would add roughly seventy-five thousand dollars to the project.

The City Manager asked Mr. Jensen if he would feel comfortable by reducing the contingency account to cover a portion of the construction costs. Mr. Jensen stated that he would feel comfortable by reducing the contingency account.

Mr. Jensen stated that he knew that there would be at least one contract deduct from using manhole covers made from a lighter weight material.

Mr. Jensen was asked if it would be possible to construct a 100 thousand gallon per day capacity facility rather than the 150 thousand gallon per day capacity facility. Mr. Jensen stated that at this time, that a 100 thousand gallon per day capacity would handle the area. He stated that the estimates of per day capacity were running about 64 to 84 thousand gallons per day.

Mayor Clark stated that the City could only accept domestic waste from the area. Mr. Jensen stated that with the pre-treatment requirements for industries that waste materials from the industries were reduced to the domestic level.

Mayor Clark asked Mr. Jensen what made the amounts of the bids vary so much. Mr. Jensen stated that he received similar amounts on a project bid this week. He stated that it depended on the contractors and if they really needed or wanted to do the job.

Councilman Ayers stated that he would feel more comfortable with putting in a 100 thousand gallon per day capacity facility to serve the area rather than the 150 thousand gallon per day facility. He stated that he would like to suggest that the engineers talk with the contractors and see how much this change would deduct from the contract.

Mr. Jensen was asked how long Council had before the contract had to be awarded. Mr. Jensen stated that he thought it was thirty days but that the project could be re-bid if Council desired.

Mr. Jensen was asked if one contract could be awarded without the other one being awarded. Mr. Jensen stated that one could be awarded without the other.

Mr. Jensen was asked if he thought the problem could be resolved by next Tuesday when Council meets again. He stated that he thought it could. He was asked to meet with the contractor to see if the contract could be changed to a 100 thousand gallon per day capacity facility.

Mr. Jensen stated that the City had the right to deduct up to twenty-five percent of the contract and the contractor had to comply. He stated that the City could deduct a larger amount if the contractor was willing.

The City Manager asked Mr. Jensen if the additional amount for the inspection fees could be capped to the amount which was allowed by Farmer's Home Administration. He stated that they could.

Mr. Jensen was asked when the warranty on the equipment would begin. Mr. Jensen stated that the warranty on the equipment should not begin until the equipment was placed in service.

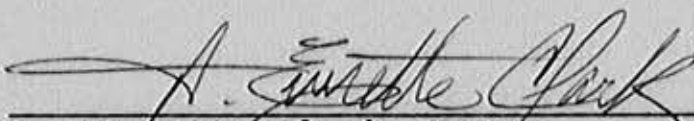
REPORTS:

1. The City Manager stated that he would like to thank Councilman Ayers for preparing the food for the employee picnic on Sunday, September 11, 1988.

2. The City Manager stated that he had been meeting with attorneys from the Municipal Code Corporation for the past two days concerning the recodification of City ordinances.

He stated that a lot of the material would be deleted from the books and kept on file in appropriate places. For example, the ordinance book would not contain fees. The fees would be kept on file in the Office of the City Clerk. He also stated that no traffic ordinances would be kept in the book that they would be kept on file in the Police Department.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

September 20, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, September 20, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, John Cross, Angus Stronach, Joe Tyler and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Allison, Secretary; Bill Gilsdorf, Chief of Police; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Mr. Eddie Horne, Taylorsville, North Carolina; Mr. Greg Lee, Boone, North Carolina; Dr. Gerald Bolick, Boone, North Carolina; Ms. Margaret D. Stevens, Old Fort, North Carolina; Ms. Pamela Marlow, Marion, North Carolina; Ms. Jeannie Davidson, Gastonia, North Carolina; Ms. Celia Abernathy, Hildebran, North Carolina; Mr. William Bardley Byrd, Bakersville, North Carolina; Ms. Linda McDaniel, Newton, North Carolina; Ms. Myrna Woody, Marion, North Carolina and Ms. Deborah Hollifield, Marion, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the September 6, and September 13, 1988 meetings.

MRS. BETTY FORD - REQUEST - EXTENSION OF BILLIARD/GAMEROOM HOURS: The City Manager stated that he had received a letter this afternoon from Mrs. Betty Ford concerning extending the hours of her billiard/gameroom and allowing a tinting of the windows or to place shades in the windows which would still allow a view of the inside from the sidewalk. The City Manager stated that the current ordinance stated that billiard/gamerooms must close at 1:00 A.M. each night and could not re-open until 7:00 A.M. the next morning except for Saturday night they must close at 12:00 midnight and not re-open until 7:00 A.M. on Monday morning. The City Manager also stated that the ordinance also required a clear view of the establishment from the outside.

The City Manager stated that he would like to request that he be allowed to meet with the Chief of Police to discuss the matter further. He stated that since the letter was not delivered until late this afternoon, he did not have time to discuss it with the Chief. He stated that they would bring back a recommendation to Council at the next meeting.

Council agreed to allow the City Manager and Chief of Police to look at the matter and come back with a recommendation at the next meeting.

FIREMEN'S ASSOCIATION - LEASE AGREEMENT: The City Manager stated that he had received no response from the Firemen's Association concerning their lease agreement for the property owned by the City of Marion adjacent to the Water Treatment Facility.

Councilman Little stated that he felt it would be appropriate to take this item off of the agenda until the Firemen's Association responded to Council.

CATAWBA WASTE TREATMENT FACILITY - DISCUSSION: The City Manager stated that he

had received an additional letter from Jensen Engineering concerning deletions for the project as discussed at the September 13, 1988 meeting.

The City Manager stated that he had also talked with Mr. Gary McGill of McGill Associates, concerning his recommendations on the project. He stated that Mr. McGill had suggested several deletions as well.

The city Manager stated that he would like to call attention to the fact that if the size of the plant was changed from a 150 thousand gallon per day facility to a 100 thousand gallon per day facility that the cost savings would be approximately \$97,076.00. He stated that the estimated usage for the plant at this time was approximately 59,000 gallons per day and that a 100 thousand gallon per day facility would be more than adequate at this time.

The City Manager stated that it would be 1991 or later before the usage of the plant increased to a 150 thousand gallon per day facility.

The City Manager stated that the auditor had informed him that the Fund Balance available in the Water/Sewer Fund is \$357,280.59.

The City Manager stated that he would like to propose that the Utility Committee, Engineers, City Manager and the Low Bidders meet to try to delete some of the unnecessary items from the contract to reduce the price. The City Manager also stated that he would like to set aside money for expansion of the facility and would hope that the interest earned on the money would be enough to off-set the cost increase for waiting several years.

Councilman Ayers stated that he felt if the need arose that the Winn Dixie Pump Station could be taken away from the facility saving approximately 10,000 gallons of waste per day.

Councilman Stronach stated that he felt that Council should go ahead and award the line contract so that the contractor could get started. The City Manager stated that since both projects required approval from EDA/ARC it would be better to award both contracts at the same time.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to allow the City Manager and the Utility Committee to meet with the Engineer and the Low Bidder to discuss possible contract deletions from the 5-Lane Waste Treatment Facility.

Council also agreed to call a special meeting on Tuesday, September 27, 1988 at 7:00 P.M. to discuss the project.

NATIONAL LEAGUE OF CITIES - ANNUAL MEMBERSHIP: The City Manager stated that the dues for membership in the National League of Cities was due and asked if Council wished to continue membership.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to not pay the dues for the National League of Cities.

Councilman Stronach asked if there would be any problems with discontinuing the services. The City Manager stated that there would be no problems.

Mayor Clark stated that Council could still attend meetings and conferences, but fees would be more expensive.

Councilman Ayers asked if it would affect the City's standing with the North Carolina League. The City Manager stated that it would not.

GARBAGE CONTAINER ORDINANCE AMENDMENT - COMPLAINTS: The City Manager stated that since the amendment to the solid waste ordinance went into effect on June 1, 1988 that he had received numerous calls. He stated that he had received three types of complaints as follows:

1. That the lids on the eight cubic yard containers were too heavy for ladies to lift and they were unable to close the lid.

2. That City Employees emptying the containers left the lids open and the owner would get a warning citation for the lid being left open. The City Manager stated that he did not foresee this as a problem since there was no trash to blow out of the containers.

3. That City and/or County residents use the containers for household garbage.

The City Manager stated that he would like to propose that the Police Chief hold all letter and warning citations until some of these problems can be resolved.

Councilman Tyler asked if the City did not pass an ordinance requiring the lids to the containers being locked. The City Manager stated that it was discussed but it was not in the ordinance.

Mayor Clark stated that most of his calls had been complaints about the lids being

ABSTRACT OF CANVASSING

We, the undersigned members of the Municipal Board of Elections, do hereby certify that we met in the Marion City Hall on April 5, 1984, and did canvass the original returns of the Registrars and Judges of election of the votes cast for Unfortified Wine, Malt Beverages and ABC Stores at the special municipal election held on April 3, 1984, and that the following is a true and correct tabulation thereof:

SPECIAL UNFORTIFIED WINE, MALT BEVERAGES AND ABC STORES ELECTION

UNFORTIFIED WINE

FOR 847 Votes

AGAINST 825 Votes

MALT BEVERAGES

FOR 852 Votes

AGAINST 821 Votes

ABC STORES

FOR 859 Votes

AGAINST 827 Votes

We, therefore, certify that pursuant to such tabulation, we have determined that it shall be legal to sell unfortified wine by means of off-premises sales only within the municipal limits of the City of Marion, North Carolina; and that it shall be legal to sell malt beverages by means of off-premises sales only within the municipal limits of the City of Marion, North Carolina; and that an ABC Store can legally operate within the municipal limits of the City of Marion, North Carolina.

Date: April 5, 1984

Robert A. Yancey
Robert A. Yancey, Chairman

Ralph Rutherford
Ralph Rutherford, Member

Glen Deal
Glen Deal, Member

Sworn to and subscribed before me

this the 5th day of April, 1984

Louina M. Smith
Notary

My Commission Expires: July 29, 1986

too heavy. He stated that lids of a lighter-weight fiberglass material could be purchased.

The City Manager stated that he had a meeting with Garbage Disposal Services at 10:00 A.M. on Wednesday, September 21 concerning the services that they offer. He stated that he had talked with them and had contracted with them when East Marion was annexed. He stated that the business in the 5-Lane area was annexed that the City would have to contract with GDS as required by the annexation laws.

The City Manager stated that he was also going to ask what the cost would be if the City contracted with GDS for two pick-ups per week for commercial and industry users and let the individual industry or business contract with GDS for the remaining pick-ups. He stated that it would be the same as it is now however, the City would not be picking up industry or commercial garbage. The City Manager stated that if the 5-Lane was annexed that a new truck would have to be purchased and that he would like to get a cost comparison between the truck and contracting with GDS for two pick-ups per week per business.

Councilman Ayers stated that he felt the City was at the point where they needed to get out of the commercial/industry pick-up.

Mayor Clark stated that the only problem he had was if a contract between the City and a private company was signed, what would happen if the company went on strike. The City Manager stated that they would have it written into the agreement that in case of a strike the garbage would still be removed.

Councilman Stronach stated that he felt that the City should receive some input from the Downtown Merchants since the contract would effect them.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to hold off on the letters and warning citations for the persons violating the garbage ordinance and to allow the City Manager to contact GDS for an estimate of what their services would cost the City if they contracted with them for garbage pick-up for commercial businesses and industries.

COUNCILMAN LITTLE - COMMENTS - PARKING ON NORTH MADISON STREET: Councilman Little stated that he had received a call concerning the parking on North Madison Street. He stated that the ordinance had been adopted some time ago but the signs had never been put up and the Chief of Police could not enforce the ordinance until the signs were up.

The City Manager stated that he had talked with Street Supervisor Aaron Adams concerning the matter and that the signs were not on order.

COUNCILMAN TYLER - COMMENTS - JUNK CARS ON MAIN STREET: Councilman Tyler stated that he had received a call concerning the junk cars on Main Street at the old Exxon Building.

The City Manager stated that the property had been purchased by First Federal but that the Fire Chief and Building Inspector were working on the problem. He stated that there were certain steps and procedures that must be followed to have the cars removed and that the initial steps had been taken.

COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he would like to see the area on Flemming Avenue across from the old Marion Hospital cleaned up.

The City Manager stated that the Building Inspector and Fire Chief were in the process of having that cleaned as well.

Councilman Little stated that he felt that the City should give a certain length of time for the places to be cleaned up and if they were not to let the City clean the places up at a charge of \$50.00 per hour per man to clean it up.

The City Manager stated that the ordinance allows for the City to clean up if the owner does not have his property cleaned.

FAMILY SERVICES - REQUEST TO PLACE PLAQUE - OCTOBER 7 - 8, 1988: The City Manager stated that he had received a letter from Family Service requesting to place a plaque on the grassy area of the parking lot on Main Street near the public restrooms on October 7 and 8, 1988.

The letter stated that October is National Domestic Violence Awareness Month and that October 3 is the Day of Unity.

The letter stated that a ceremony was being planned on October 3 on the Courthouse Lawn to commemorate the pain and suffering of domestic violence victims.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to allow Family Service to place a plaque in the grassy area of the parking lot on Main Street near the public restrooms with the following stipulation: that they work with the Police Department on placement of the sign so that it will not obstruct traffic.

POSSIBLE PROPERTY DONATION - CHARLES M. WOODY M.D.: Mayor Clark stated that Dr. Charles M. Woody had stopped by his office last week to discuss a possible

property donation. Mayor Clark stated that the property was on Old Greenlee Road just past the Water Filter Plant. He stated that Dr. Woody would like to donate the property for a recreational purpose in turn receiving perpetual care for a small private cemetery located on the property. Mayor Clark stated that he thought Mr. Woody had talked with Chuck Abernathy, County Manager. A short discussion followed.

Council agreed to talk with the County Commissioners and the Recreation Commission concerning the property.

REPORTS:

1. ATTORNEYS - MUNICIPAL CODE CORPORATION: The City Manager stated that he had been in meetings with attorneys from the Municipal Code Corporation concerning the recodification of the City Code of Ordinances last week. He stated that they were working on a draft copy for the Council to approve prior to the acceptance of the final copy.

2. NEW POLICIES: The City Manager stated that Mr. Robert Parker, Personnel Director was working on a new Grievance Procedure and Personnel Ordinance. He stated that he hoped to have them completed by the next Regular meeting of Council.

3. NORTH CAROLINA LEAGUE OF MUNICIPALITIES - ANNUAL MEETING: The City Manager stated that the annual meeting of the North Carolina League of Municipalities would be October 2, 3, and 4th. He stated that the meeting would be held in Asheville and that persons interested in going would be able to drive back and forth.

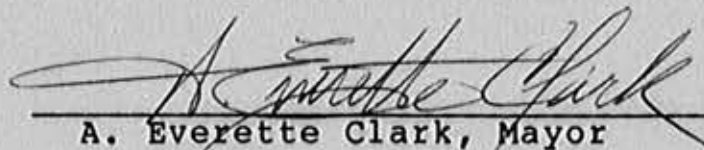
4. HIGHWAY STUDY COMMISSION MEETING - SEPTEMBER 20, 1988 - McDOWELL TECHNICAL COMMUNITY COLLEGE: The City Manager stated that various members of the Council had attended several meetings of the Highway Study Commission. At the meetings, they discussed the needs of the western part of the State Highway.

5. COUNCILMAN STRONACH - COMMENTS: Councilman Stronach asked what the progress was on the Boyd property (Ref: Minutes of September 6, 1988). The City Manager stated that they were in the process of doing the survey.

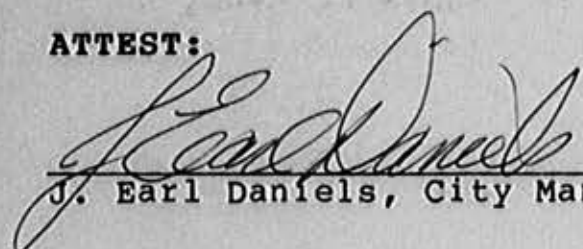
6. PROCLAMATION - EMERGENCY MEDICAL SERVICES WEEK: Mayor Clark signed and read a Proclamation designating the week of September 18 through 24, 1988 as Emergency Medical Services Week.

DR. GERALD BOLICK - APPALACHIAN STATE UNIVERSITY: Mayor Clark asked Dr. Bolick if he or any of his students had any questions or comments concerning the meeting. A few brief comments were made.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

September 27, 1988

The City Council for the City of Marion met in Special Session on Tuesday night, September 27, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen John Cross, Robert Ayers, Angus Stronach, Joe Tyler and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; E. P. Dameron, City Attorney; LuAnn Allison, Secretary; Lovina Smith, Zoning Administrator; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS: Mr. Chuck Abernathy, County Manager. Mr. Jack Wood, County Commissioner arrived after the meeting had adjourned.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to discuss the bids received for the proposed 5 - Lane Waste Treatment Facility.

The City Manager stated that he had met with the Utility Committee, the Engineers and the Low Bidders on Monday to discuss a possible reduction in the cost of the 5 - Lane Waste Treatment Facility.

The City Manager stated that he had gone back through the past budgets on the project and the discussions of the project in the Minute Book. He stated that McDowell County had allowed the City of Marion to use \$127,000 in Senate II Funds from the 5 - Lane Project to construct Sludge Lagoons at the Water Filter Plant on the condition that the money would be replaced if needed for the 5 - Lane Project.

The City Manager stated that the project would consist of a 150 thousand gallon per day facility instead of reducing the size to 100 thousand gallon per day facility as discussed in earlier meetings.

The City Manager stated that the total amount of funds needed over the budgeted amount was \$218,565.00 or if the reductions which were discussed in the meeting with the Engineer, Contractor and Utility Committee were agreed on, the amount needed could be reduced to \$179,063. He stated that both amounts included the \$127,000.00 used which were to be replaced if needed.

The City Manager read a portion of a letter from Mr. Joel Storrow of Jensen Engineering which summarized the meeting of the day before. The letter from Mr. Storrow stated that he would like to recommend that the scope of the project stay at the 150 thousand gallon facility as bid. The letter stated that he would recommend awarding Contract #1 for the lines as it was. The letter stated that the following options concerning Contract #2 were available:

1. Reduction to 100 thousand gallon facility
2. Leave as 150 thousand gallon facility with these deletions

1. Paint Substitution	\$18,500.00
2. Substitute Ultraviolet Syst.	5,000.00
3. Inspection Trailer	1,200.00
4. Construction Photos	300.00
5. Mud Pad Delete	160.00
6. Reduction in construction access road	2,134.00
7. Access gate	325.00
8. Reduce Valve Vault Size	2,355.00
9. Misc. Metal Charge Reduction	2,448.00
10. De-Water Pump	1,580.00
11. Storm Inlets Deduct	2,000.00
12. Fill Dirt	3,500.00
	<u>\$ 39,502.00</u>

The letter stated that the deletions consisting of an inspection trailer, construction photographs, an access gate, and de-water pumps could be provided by the City.

The letter stated that there may be an additional cost in the amount of \$22,500.00 for an inspector for North Carolina Department of Transportation since a portion of the line would go on their right-of-way. The letter stated that the amount could possibly be reduced to \$10,000 - \$15,000 since the inspector would not be needed every day.

The City Manager stated that he would like to make the following recommendations to Council: 1. To accept the low bid for Contract 1, Wheeler Construction in the amount of \$486,290.00 contingent on approval by ARC/EDA. 2. To accept the low bid for contract 2, Hickory Construction in the amount of \$629,475.00 contingent upon approval by ARC/EDA. The City Manager recommended negotiations to reduce the cost for Contract 2 by deleting minor unnecessary items.

Councilman Tyler asked about the paint substitution. The City Manager explained that the type of paint in the contract called for epoxy paint, but that the contractor stated that he was removing plants approximately fifteen years old and paint other than epoxy was still in good condition.

Councilman Stronach made a motion to accept the low bid for Contract 1, Wheeler Construction in the amount of \$486,290.00 contingent on approval by ARC/EDA and to accept the low bid for Contract 2, Hickory Construction in the amount of \$629,475.00 contingent upon approval by ARC/EDA. The motion was seconded by Councilman Cross.

Mayor Clark asked for any discussion.

Councilman Ayers stated that he would like to raise a question concerning the amount which would be taken from the fund balance and the amount that would be left in the fund balance. He was informed that the total amount to be taken from

the fund balance was \$179,063.00 which would leave \$179,217.59 in the account.

Mayor Clark stated that he would like to see if D.O.T. would accept the inspector from Jensen Engineering to reduce the additional cost for an additional engineer.

The City Manager stated that \$67,120.00 was being left in the contingencies account.

Councilman Ayers stated that if the contract was reduced would the amount which the engineer charged also be reduced. He was informed that it would.

The City Manager stated that he would also like to mention that he could find no correspondence or reference to where the project was changed from a 100 thousand gallon per day facility to a 150 thousand gallon per day facility.

Mayor Clark asked for any additional discussion. There was none.

Mayor Clark stated that he had received a motion and a seconded with no further discussion. Council voted unanimously to accept the low bid for Contract 1, Wheeler Construction in the amount of \$486,290.00 contingent on approval by ARC/EDA and to accept the low bid for Contract 2, Hickory Construction in the amount of \$629,475.00 contingent upon approval by ARC/EDA.


REPORTS:

1. Mayor Clark stated that he had received a call to invite the Council to the Special Olympics. They are to be held at East Junior High School on Saturday, October 1, 1988 at 8:00 A.M.

Councilman Stronach stated that if they had never been to the Olympics that it would certainly be worth going to.

2. The City Manager stated that he had been asked to purchase an advertisement in the McDowell News to be in a special section of the newspaper. He stated that the cost of a full page advertisement would be \$595 and it would be \$395 for one-half of a page. He stated that the McDowell News was printing the Annual Report to the Citizens and that he did not favor spending the additional money for the advertisement. Council was in agreement.

ADJOURNMENT: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 4, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, October 4, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Joe Tyler; Angus Stronach; John Cross; Robert Ayers; and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; E. P. Dameron, City Attorney; LuAnn Allison, Secretary; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Albert Buckner, Marion Cab Company.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the September 20 and September 27, 1988 meetings.

MR. ALBERT BUCKNER - MARION CAB COMPANY: Mr. Albert Buckner of Marion Cab Company appeared before Council concerning the current rate schedule for taxicabs in the City of Marion.

Mr. Buckner stated that he was having to do something that he never thought he would in asking for an increase in the rates. He stated that in the past few

months that he had operated with a loss. Mr. Buckner stated that he had to lay off one driver and he was doing the route himself without pay. Mr. Buckner stated that his insurance to operate the taxicabs had increased substantially as well.

The City Manager stated that he was in agreement that something needed to be done in the way of taxicabs. He stated that the Municipal Code Corporation who was redoing the City Code had sent several sample Ordinances for the City to consider in regard to taxicabs.

The City Manager stated that in his opinion, he thought that going to a meter system would be the best way since there should be no question as to the way the charge was computed.

Mr. Buckner stated that Asheville was the closest place where meters were used. He stated that he had heard negative comments in that the meters confused the customers.

Chief Gilsdorf stated that the meter looked similar to the radar units which the police department used. He stated that they had several screens lined up side by side which computed different amounts, for example, a flat fee was charged for getting inside the cab and then one screen was used for miles traveled, one for time where they may drop someone off and wait on them, and the addition of luggage or extra passengers.

Mr. Buckner stated that the current system the City uses of charging certain amounts for particular zones would work, but that the system needed to be redone using road names. The current system was set up using landmarks around the county which are outdated.

Councilman Ayers asked if the rates were changed would it affect all of the taxicabs in the City. He was informed that it would.

Mr. Buckner was asked if he had any particular amount of increase in mind. He stated that he would like to see an increase of twenty-five cents (\$.25) to the cost per zone.

Mayor Clark stated that he would like to appoint a committee to look into the matter. He stated that he felt that the entire policy needed to be looked at. He asked Council if they would like to increase the rates now rather than waiting until the committee could come back with a recommendation.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to increase the taxicab rates as follows: Zone 1. - From \$1.75 to \$2.00; Zone 2. - From \$1.75 to \$2.00; Zone 3. - From \$2.35 to \$2.60; Zone 4. - From \$2.95 to \$3.20; and Zone 5. - From \$3.35 to \$3.80.

The City Manager asked Mr. Buckner if he had any problems with going to a meter system. Mr. Buckner stated that he did not and would prefer that system, but he could not afford to make a large investment to purchase the meters.

Mayor Clark stated that he would like to appoint Councilman Cross and Councilman Ayers to serve with the City Manager and Chief of Police to look into the taxicab situation.

The Police Chief asked if Council would have a problem with the taxicab owners meeting with the committee so that they could have their input as well. Council did not have a problem with the business owners participating, but they did not want them to vote on any matter.

POOL ROOMS - ORDINANCE: The City Manager stated that he and the Chief of Police had prepared an ordinance for Council to consider concerning pool room operations.

The City Council read the old ordinance so that Council could compare it with the new ordinance. He stated that the main changes included leaving out the hours of operation, no Sunday closing rules, and eliminating the glass at the front of the building facing the sidewalk so that a clear view of the inside could be seen.

Councilman Tyler stated that he felt there would be problems if the establishments were allowed to be open all night long. He stated that he especially felt this would be true if the pool room on East Court Street was allowed to remain open on Sundays when church services were being conducted.

The City Manager stated that the General Statutes had an example of a case where the operations were limited to only one business. He stated that if they required the pool halls to be closed that the same rules would apply to bowling alleys, convenience stores, laundromats or any other place where video games or amusements of that type were allowed.

Councilman Ayers asked if a problem did arise what would happen. He was informed that the General Statutes did allow pool halls to be prohibited.

Mr. Dameron, City attorney stated that the ordinance they adopted should apply equally to everyone who operates a business which contains a recreational activity. He stated that according to the statute, no business could be singled

out.

Councilman Stronach made a motion to adopt the following ordinances. The motion was seconded by Councilman Ayers. The vote was as follows: Ayes: Councilman Stronach, Councilman Ayers, Councilman Cross, and Councilman Little. Nays: Councilman Tyler. The motion carried.

AN ORDINANCE CONCERNING POOL ROOMS, BOWLING ALLEYS, PINBALL MACHINES AND VIDEO GAMES

BE IT ORDAINED by the City Council of the City of Marion, North Carolina that ARTICLE C, SECTIONS 6-1061 through and including SECTION 6-1068 of THE CHARTER AND CODE OF ORDINANCES, CITY OF MARION is hereby deleted in its entirety.

Adopted this the 4th day of October, 1988.


A. Everette Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

AN ORDINANCE REGULATING POOL ROOMS,
BOWLING ALLEYS AND GAME ROOMS

BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:

Section 1. No person shall maintain or operate any pool or billiard table, bowling alley, pinball machine, or video game, or other game table or alley for any game or play for which a charge is made, either directly or indirectly, unless he shall first have secured a State license from the Secretary of Revenue (N.C.G.S. 105-64) and a permit from the City Council to do so. Such permit shall not be transferable.

Section 2. Application for Permit. Application for such permit shall be made upon forms provided by the Chief of Police, and shall contain all information necessary for the City Council to act intelligently upon such applications. (N.C.G.S. 160A-181)

Section 3. When Permit Refused. The City Council shall not issue such permit to any person:

- (1) Who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
- (2) Who is not a citizen and resident of North Carolina; or
- (3) Who is an excessive user of intoxicating liquor or narcotic drugs.

Section 4. Form and Content of Permit. Every permit issued pursuant to this article shall specify the premises for which it is issued, the number of games, tables or alleys to be operated thereunder, the name of the owner or operator, and the dates upon which the permit begins and shall expire. Such permit shall be posted in a prominent place on the premises at all times.

Section 5. Certain prohibitions to be observed by permit holders and employees. Permit holders under this article shall not, and neither shall their employees:

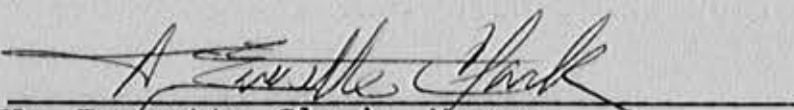
- (1) Permit any gambling on the permitted premises at any time; nor the sale or use of any racing, football or other parlay cards or gambling board.
- (2) Permit the permit holder's premises to become disorderly; or permit any profane, obscene, or indecent language thereon.
- (3) Permit any intoxicating liquors or narcotic drugs to be sold or kept or consumed on the permitted premises.
- (4) Knowingly permit any person under age of eighteen (18) years to enter or remain on the permitted premises of a pool room, where before such minor under eighteen (18) years of age enters or remains in such pool room, the manager or owner thereof has been notified by the parents or guardian of such minor not to allow him to enter or remain in such pool room. (N.C.G.S. 14-317)
- (5) Employ in carrying on the business, any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs.
- (6) Permit any keeley board, keno board, or any other such board or device to be attached to or placed upon any tables.


Section 6. Permit Holder Responsible. The acts and conduct of the agents and employees of the permit holder in the conduct of the business shall be deemed to be the acts of conduct of the permit holder.

Section 7. Revocation of Permits. A second conviction of a permit holder, or his

agent or employee, for any violation of any provision of this article shall by operation of law constitute an automatic revocation of the permit of such permit holder. In addition, the City Council may at any time for cause and after a hearing, of which such permit holder shall be given such reasonable notice as the City Council may direct, revoke any permit issued pursuant to this article.

Adopted this the 4th day of October, 1988.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

NORTH MADISON STREET - LIMITED PARKING ORDINANCE: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance.

Parking Ordinance
North Madison Street

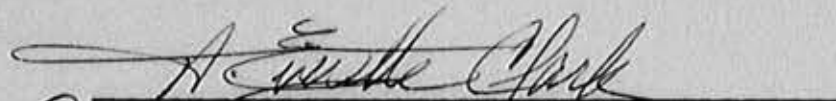
BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:

Section 1. When signs are erected giving notice thereof, no person shall park a vehicle for longer than two (2) hours from 9:00 A.M. to 5:00 P.M., Monday through Saturday on any of the streets or portions of streets described below:

- A. North Madison Street - East side, beginning at a point two hundred and eighty (280) feet north of the northeast corner of the intersection of North Madison Street and East Court Street, extending a distance of seven hundred and twenty two (722) feet in a northerly direction.

Section 2. Any person who shall violate or fail to comply with this Ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Adopted this the 4th day of October, 1988.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

1988-89 CITY BUDGET ORDINANCE AMENDMENT: The City Manager stated that he had prepared a budget ordinance amendment to allow the transfer of funds needed to purchase the Boyd property adjacent to the City Warehouse and to finance the 5 Lane Waste Treatment Facility. He stated that he had noticed an error in the amendment and would like to resubmit the amendment at the next meeting.

BUDGET AMENDMENT - CAPITAL PROJECT BUDGET ORDINANCE NORTH MARION WASTE TREATMENT FACILITY: The City Manager stated that this budget amendment was a part of the ordinance amendment which was to be resubmitted. He stated that he would like to hold this amendment and submit them both at the same time.

COMMERCIAL GARBAGE SERVICE - REQUEST FOR COMMITTEE: The City Manager stated that he had asked Mayor Clark to appoint a committee to look at the commercial garbage service proposal. Mayor Clark stated that he would like to appoint Councilman Cross and Councilman Tyler to the committee.

REPORTS:

1. TRAFFIC LIGHT REPORT: The City Manager stated that he would like to report that the traffic signal lights on State and Main Streets were in and working.

2. ABOVE GROUND LINES - TELEPHONE COMPANY: The City Manager stated that he had called the telephone company and that they had set up a meeting on Wednesday, October 5, 1988 at 10:00 A.M. to discuss the problem of so many above ground telephone lines in the City.

3. D.O.T. - FUNDS FOR CURB: Mayor Clark asked if any word had been received on the funding for the replacement of Main Street curbs. The City Manager stated that it had been indicated that the money would be reimbursed but that he did not have it in writing. Mayor Clark stated that he had heard that the money was frozen and that it would be most likely not be reimbursed.

4. RESERVOIR - LEAK PROBLEM: The City Manager informed Council concerning the leak problem with the reservoir. He stated that they were now looking into the possibility of the piping underneath the tank leaking rather than the tank itself. He stated that he would keep Council informed.


5. PROPERTY PURCHASE - BOYD PROPERTY: The City Manager stated that he had talked with the surveyor on the progress of the Boyd property survey. He had been advised that the survey was finished but that the map and description needed to be completed.

6. FIRST FEDERAL PROPERTY - MAIN STREET: The City Manager stated that he had spoken with a representative of First Federal concerning the junk cars and trash around the property they had purchased. The gentleman stated that he was not aware of a problem and would check into the matter. The City Manager stated that he had received a call back and the person had stated that he wished he had been informed earlier and that someone would be working on the removal of the junk this week.

7. COMMUNITY BUILDING ROOF REPLACEMENT: The City Manager was asked when the Community Building roof was to be replaced. He stated that the contract had been awarded and he needed to talk with the Building Inspector to get the date when they would begin.

8. CHIEF OF POLICE - REPORT: The Chief of Police presented his monthly report to Council. He stated that he would like to show Council a new radar unit he had received. He stated that the State had donated two units to the Police Department on the condition that they conduct a survey of five locations concerning speed limits. He stated that they had to do the survey again in two years to see if it was effective.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 18, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, October 18, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, Angus Stronach, Joe Tyler and Steve Little.

BOARD MEMBER ABSENT: Councilman John Cross.

OTHERS PRESENT: J. Earl Daniels, City Manager; E. P. Dameron, City Attorney; LuAnn Allison, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. David Blanton, Marion, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the October 4, 1988 meeting.

COMMUNITY BUILDING - REQUEST TO USE: The City Manager stated that he had received a call from a local merchant requesting to use the Community Building for a "window clinic". The City Manager stated that he had told the person that he felt that use of the building for that purpose would be against the rule which stated that the building was not to be used for persons making a profit.

Mayor Clark asked if the merchant would be taking orders and if the project would be beneficial to the public by offering energy efficient ideas? The City Manager stated that he felt sure that the merchant would be taking orders.

Councilman Stronach asked if it was such a bad idea to use the building for such purposes? He stated that other Cities use their buildings for fairs and that type activities.

Councilman Little stated that he felt that if the building was used for profit making purposes that the rates should be on a different scale than the scale used now.

Mayor Clark stated that he would like for the Community Building Committee to look into the ideas and offer suggestions to Council at the next meeting. Council was in agreement.

MR. DAVID BLANTON - REFERENCE PARKING LOT: The City Manager presented a video recording of the parking lot located at the northeast corner at the intersection of Henderson and Logan Streets which is owned by Mr. David Blanton and leased by the City of Marion. The City Manager explained that the sewer line running through the parking lot was stopped up and that Mr. Blanton was of the opinion that the line was broken by the City's garbage packer running over the line to empty the garbage container.

Mr. David Blanton appeared before Council and stated that he had three plumbers look at the problem and they were all of the opinion that the line was damaged by the garbage packer running over the lines. He stated that a tape was inserted into both sides of the line and each time, the tape had stopped at the tire marks, making the blockage the distance between the two tire marks.

Mr. Blanton stated that he had replaced the line the length of the parking lot and would like for the City to replace the portion of pavement which was torn up to allow the work to be accomplished. A short discussion followed.

Upon a motion by Councilman Tyler, seconded by Councilman Little, those members of Council present voted unanimously to replace the portion of pavement as requested.

PUBLIC HEARING - PROPOSED AMENDMENT TO CITY OF MARION ZONING ORDINANCE: The City Manager opened the Public Hearing to discuss an amendment to the Marion Zoning Ordinance.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following ordinance:

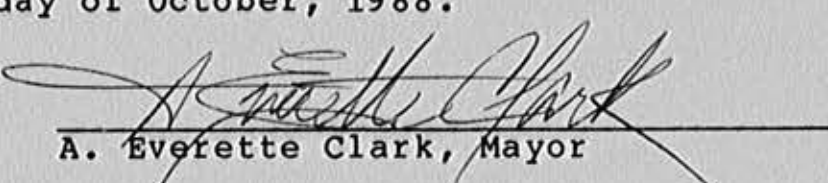
**AN ORDINANCE AMENDING THE ORDINANCE
ENTITLED MARION ZONING ORDINANCE**

BE IT ORDAINED by the City Council of the City of Marion, North Carolina that **Article VIII. Use Requirements by District, Section 806. 0-1 Office and Institutional District** of the Marion Zoning Ordinance be amended to include the following:


Section 806.3 Special Exceptions. The following uses are permitted as special exceptions as provided for in Article XII, Section 1204.2 of this Ordinance:

1. Heliports

ADOPTED this the 18th day of October, 1988.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

O-10-18-88-1

BUDGET ORDINANCE AMENDMENT - 1988-89 BUDGET: Upon a motion by Councilman Little,

seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following budget ordinance amendment:

**1988-89 BUDGET ORDINANCE
AMENDMENT**

BE IT ORDAINED by the City Council of the City of Marion, North Carolina that the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 1988-89 as adopted by the Marion City Council on the 21st day of June, 1988 is hereby amended as follows:

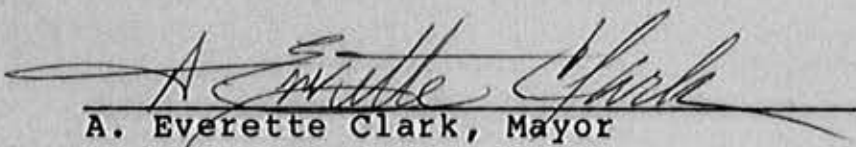
Section 1. Water and Sewer Fund Revenues, Fund Balance Appropriated, Account number 30-299-00 is increased from \$131,299 to \$374,364 by a supplemental appropriation from unappropriated surplus in the amount of \$243,065.

Section 2. Water and Sewer Expenditures, Water/Sewer Operations Department, Capital Operations Department, Capital Outlay, Account Number 30-810-74 is increased from \$50,000. to \$74,500.


Section 3. Water and Sewer Expenditures, Non-Departmental Department, Contribution to Capital Project Fund (North Marion Wastewater Treatment Facilities), Account Number 30-660-100 is increased from \$0.00 to \$218,565.

Section 4. Copies of this Budget Amendment shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 18th day of October, 1988.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

O-88-10-18-2

CAPITAL PROJECT BUDGET AMENDMENT - NORTH MARION WASTE TREATMENT FACILITY: Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following capital project budget amendment:

1988-89 BUDGET AMENDMENT

**CAPITAL PROJECT BUDGET ORDINANCE
NORTH MARION WASTEWATER TREATMENT FACILITIES**

BE IT ORDAINED by the City Council of the City of Marion, North Carolina that the Budget Ordinance for the NORTH MARION WASTEWATER TREATMENT FACILITIES as adopted the 5th day of May, 1987 is hereby amended as follows:

Section 1. The following amounts are hereby appropriated in the Capital Project Budget (North Marion Wastewater Treatment Facilities) for the construction of a new waste treatment plant, including outfall lines, pumping stations, collector lines, and administrative and technical services:

Construction	\$1,115,765
Site Acquisition	48,879
Engineering and Inspection	109,000
Contingencies	<u>67,121</u>

Total Project Cost	\$1,340,765
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Section 2. It is estimated that the following revenues will be available for the project:


EDA Grant	\$ 250,000
ARC Grant	200,000
Senate II Funds (State)	272,200
County Funds (Local)	400,000
City Funds (Local)	<u>218,565</u>

Total Estimated Revenues	\$1,340,765
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Section 3. Copies of this Capital Project Budget Ordinance Amendment (North

Marion Wastewater Treatment Facilities shall be furnished to the budget officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 18th day of October, 1988.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

O-88-10-18-3

COUNCILMAN LITTLE - REPORT - BILLBOARD MOTATORIUM: Councilman Little stated that he would like to request an extension of the Billboard Motatorium which was adopted on May 3, 1988 to be effective for a period of six months. Councilman Little stated that the committee had been working every Tuesday through lunch on suggestions for the billboard problem. He stated that they were almost completed, but would like to extend the motatorium until January 31, 1989 if possible.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to extend the period of the Billboard Motatorium from November 3, 1988 to January 31, 1988.

TREE ADVISORY BOARD - REMOVAL OF WHITE PINES - LOGAN STREET:

The City Manager presented a memorandum from Mr. Robert Parker, Personnel Director and Administrative Assistant. The memorandum stated that the Tree Advisory Committee had met on October 11, 1988 and had recommended that the white pines located at the back portion of the Logan Street parking lot be removed and replaced with Foster Holly Trees.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to accept the recommendation of the Tree Advisory Board.

RESOLUTION - ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION - FUNDING: Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following resolution:

**R E S O L U T I O N
BY
CITY OF MARION**

WHEREAS, in North Carolina the Lead Regional Organizations, as voluntary organizations serving municipal and county governments, have established productive working relationships with the cities and counties across this state; and

WHEREAS, many counties and cities need assistance in pursuing economic and community development opportunities, but federal assistance in the form of intergovernmental revenues has been severely curtailed in recent years; and

WHEREAS, the 1987 General Assembly recognized this need through the appropriation of \$990,000 to help the Lead Regional Organizations assist local governments with grant applications, economic development, community development, and to support local industrial development activities and other activities as deemed appropriate by their local governments; and

WHEREAS, these funds are not intended to be used for payment of member dues or assessments to a Lead Regional Organization or to supplant funds appropriated by the member governments; and

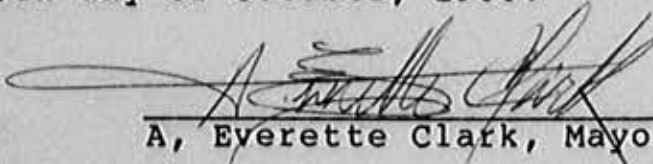
WHEREAS, in the event that a request is not made by the City of Marion for release of these funds to our Regional Council, the available funds will revert to the state's General Funds; and

WHEREAS, in Region C, funds in the amount of \$55,000 will be used to/for assist local governments with state and federal grant applications in community and economic development, provide various support activities to industrial development in the region, develop and expand data base essential to community and economic development, provide technical assistance to local governments in planning and growth management issues, assist local governments in resolving solid waste issues, bring together all organizations involved in economic development activities, and other activities as requested by local governments and authorized by the Isothermal Planning and Development Commission.

NOW THEREFORE, BE IT RESOLVED, that the City of Marion requests the release

of its share of these funds, \$837.23, to the Isothermal Planning and Development Commission at the earliest possible time in accordance with the provisions of Chapter 830 of the 1987 Session Laws (HB 1515).

ADOPTED this the 18th day of October, 1988.


A, Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

R-88-19-18-1

SURPLUS EQUIPMENT - REQUEST TO SALE AT PUBLIC AUCTION: The City Manager stated that he had a list of surplus vehicles that he wished to sale at the annual City/County/Board of Education Auction, said auction to be held on Wednesday, November 2, 1988 at 12:30 P.M. at the McDowell County Agriculture Barn. The list consisted of:

1. 1976 Chevrolet 3/4 Ton Pick-up with Utility Bed
Serial Number CCL236A155938
2. 1972 Ford 1 1/2 Ton Truck with Dump Box Bed
Serial Number F60DVS81160
3. 1978 Datsun 1/2 Ton Truck
Serial Number HL6203339466
4. 1963 Yale Fork Lift
Serial Number AE-052000

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to declare the above listed items surplus and allow them to be sold at public auction.

GRIEVANCE COMMITTEE - BYLAWS: The City Manager presented copies of the revised City of Marion Grievance Committee Bylaws to Council. He stated that the specific differences was the time in which to resolve the grievance and the number of persons to serve on the Committee.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following Grievance Committee Bylaws:

BYLAWS OF CITY OF MARION GRIEVANCE COMMITTEE

ARTICLE I. NAME

Section 1. - This organization shall be known as the City of Marion Employee Grievance Committee.

ARTICLE II. PURPOSE

Section 1. - The purposes of the grievance and conflict procedure include, but are not limited to the following:

- A. To provide an effective and acceptable means for employees to present problems and complaints concerning their well-being at work;
- B. To insure that these types of problems are brought to the attention of the Administration;
- C. To insure an employee or group of employees of fair, impartial, and prompt consideration of a problem or dissatisfaction without fear of reprisal;
- D. To instill and to increase employees confidence that personnel actions are taken in accordance with established, fair and uniform policies and that fair and impartial treatment will be received;
- E. To develop in supervisors a continuing sense of responsibility for maintaining an effective working relationship with subordinate employees;

The goal shall be to achieve our purpose in an unbiased quasijudicial manner free from prejudice or favoritism.

ARTICLE III. DEFINITIONS

Section 1. - A grievance is defined as "the dissatisfaction that occurs when an employee has reason to believe that a condition, a situation, or action (disciplinary or other), affecting the employees is unjust, inequitable, and/or a hindrance to the effective performance of his/her duty assignment."

ARTICLE IV. MEMBERSHIP

Section 1. - The Committee Membership shall consist of the following:

- One (1) City Council Member
- Five (5) Regular City Employees

Section 2. - The Marion City Manager shall be a member of the Committee in the capacity of advisor only.

ARTICLE V. ELECTION OF OFFICERS AND/OR MEMBERS

Section 1. - The City Council Member, who shall be appointed by the Mayor, shall serve as the Committee Chairman and preside at all meetings. In the absence of the Chairman, the Secretary shall serve in his/her capacity.

Section 2. - The Secretary of the Committee shall be the Personnel Director of the City of Marion. In the case of his absence, the City Manager shall appoint someone to serve in his/her capacity.

Section 3. - All members of the Committee shall be appointed by the Mayor and be subject to approval by the City Council. Appointments, when possible, will be a representative group of both male, female and minorities.

ARTICLE VI. TERMS OF OFFICERS AND MEMBERS

Section 1. - The terms of membership shall be as follows:

- A. One (1) City Council Member appointed for a one (1) year term from January 1 to December 31.
- B. Five Regular City Employees appointed for a one (1) year term from January 1 to December 31.
- C. Members may be appointed for consecutive terms.

ARTICLE VII. MEETINGS

Section 1. - Meetings may be called whenever deemed necessary by the Committee Chairman to hear a complaint or such other business that may be relevant to the Committee's obligations.

Section 2. - The complainant may be allowed to bring a fellow employee with him to the meeting.

Section 3. - No legal representation will be allowed into the meetings unless the grievance reaches the level of the City Council. At such time, both the City and the complainant will be allowed to have council.

Section 4. - A police officer will be requested to be present at all grievance meetings.

ARTICLE VIII. VOTING.

Section 1. - All voting will be done by secret ballot.

Section 2. - The Committee Chairman will vote only in case of a tie.

Section 3. - The Secretary will be a non-voting member.

Section 4. - A quorum shall consist of three Regular City Employees for voting purposes. The chairman will not vote in this circumstance.

ARTICLE IX. GRIEVANCE PROCEDURE

Section 1. - The Committee shall use the current City Ordinances and standard City policies as a general basis for study or review of a complaint, however, decisions may be based upon other criteria approved by the Mayor and City Council.

Section 2. - This procedure is only open to regular employees of the City. Anyone still in the probation period is not allowed to enter this process.

Section 3. - When an employee (or group of employees) feels the need to resolve a work related problem, dissatisfaction, disciplinary action or complaint, the following procedure is to be followed:

Section 4. - When an employee works directly under a department head, the employee should first have an informal discussion about the grievance with that department head.

If the grievance cannot be resolved, the employee should complete a grievance form and proceed to Step 2 of the procedure.

PRELIMINARY STEP - INFORMAL DISCUSSION

An employee (or group) who feels he has a grievance shall first discuss his problems with his immediate supervisor. The employee (or group) shall inform the supervisor of the grievance as soon as possible but not later than 4:00 P.M. of the next workday following the incident or actions that caused or revealed the problem. It is the supervisors responsibility to encourage the employee to talk openly about his problem so as to promote a better understanding of the situation.

Step 1. - Grievance to Supervisor

Filing: If the supervisor cannot resolve the complaint it then becomes a grievance. The employee is to obtain an Employee Grievance Form from his supervisor and file it with the supervisor by 4:00 P.M. of the second workday of the informal discussion.

Format: The employee is to submit a documented statement of the nature of the complaint. The grievance must be specific in content; tell what the employee expects; offer a reasonable solution; and be dated and signed.

Action Taken: The supervisor shall advise the employee (or group) that the grievance will be brought to the attention of the department head. Such a request must be received by the department head no later than four workdays following the event that caused or revealed the grievance.

Step 2. - Appeal to the Department Head:

If the grievance is not settled at the supervisory level, an appeal may be made to the department head.

Filing: The supervisor shall attach to the initial grievance any thing he feels related to the matter. The form should be signed and dated by the supervisor before it is passed on to the department head. Such a request must be filed with the department head no later than four (4) workdays following the event that caused or revealed the grievance.

Format: The department head shall immediately notify the employee (or group) and the immediate supervisor of the date and time of the meeting which will be no later than six (6) workdays after the problem causing the event. The immediate supervisor shall attempt to explain his position. The employee may choose one fellow employee to attend the meeting to assist him in presenting his side of the event.

The department head will open the meeting with an informal discussion of the problem and will explore every possible solution with those in attendance. Every effort will be made during this discussion to resolve the grievance to the satisfaction of all concerned.

Action Taken: However, if the grievance cannot be resolved through this discussion, the department head will likewise advise the employee (or group) that the grievance will be brought to the attention of the City Manager.

Step 3. - Appeal to the City Manager:

If the grievance is not settled to the employee's satisfaction by either the supervisor or the department head's response, the employee may proceed to this step.

Filing: The department head will likewise attach, in writing, any remarks he wishes to make, affix the date and his signature, and promptly file the report with the City Manager for further consideration. If the employee has any changes in his comments or particular disagreements with the previous meetings, these should be stated and attached at this time. The filing is to be done within seven (7) workdays of the event.

Format: The City Manager will review the grievance of the employee and the statements made by the immediate supervisor and the department head.

Action Taken: The City Manager will either:

1. Channel the request on to the Chairman of the Grievance Committee to allow a meeting to be called;
2. Determine that the grievance is non-appealable based on pre-established policies (established wage scales, personnel ordinance, etc.).
3. Meeting with the complainant along with the supervisor and department head before making a decision or before turning it over to the Grievance Committee. This is to be done within eight (8) workdays of the initial grievance.

Step 4. Appeal to the Grievance Committee:

If the City Manager determines that the grievance will be turned over to the Grievance Committee, then a meeting will be called.

Filing: The City Manager will forward all forms and attached remarks to the Committee Chairman and a meeting will be called no later than ten (10) workdays of the event that caused the grievance.

Format: The meeting will be considered as a closed meeting. Members of the media, the general public, representatives or attorneys for either side will not be allowed in the meeting. Those present should include the complainant, a chosen fellow employee, proper department heads and supervisors and members of the appointed committee. The chairman will take charge of the meeting and control the sequence as deemed necessary.

Action Taken: At the completion of the meeting everyone not involved in the decision making process will be excused and a vote will be taken by the Grievance Committee. The Chairman shall notify the City Manager of the Committee's decision. The City Manager shall have the final approval of the Grievance Committee's decision and the right to disagree or override the decision. The complainant shall be informed within two (2) workdays of the Grievance Committee's meeting.

Step 5: Appeal to the City Council:

Any City Employee shall have the right to appeal a decision of the Mayor, City Manager or the Grievance Committee to the City Council after the Grievance Committee has considered the grievance.

Filing: The appeal shall be presented, in writing, to the City Manager for presentation to the City Council within five (5) workdays of the decision being appealed.

Format: As in previous steps, the employee should be specific as to the particular points of disagreement and offer solutions or remedies. If the grievance reaches the level of City Council, then legal representation shall be allowed for the City and for the complainant.

Action Taken: A decision will be rendered within one (1) day of the meeting. A letter will be forwarded to the complainant informing him/her of the decision.

ARTICLE X. GRIEVANCE PROCEDURE - POLICE DEPARTMENT

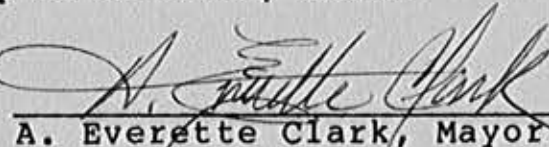
Section 1. Upon entering the grievance procedure, the title of Mayor shall be placed in all references to the City Manager when dealing with police matters.

Section 2. Police Officers shall follow the chain of command as given:

1. Dispatcher and patrolman
2. Sergeant
3. Police Chief
4. Mayor

This Ordinance shall be effective November 1, 1988.

ADOPTED this the 18th day of October, 1988.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

REGIONAL SOLID WASTE COMMITTEE - APPOINT ONE MEMBER: The City Manager stated that he had received a call from Mr. Chuck Abernathy, County Manager concerning a Regional Solid Waste Committee. Mr. Abernathy had stated that the County had been asked to appoint three members from their board to the committee, but had decided to allow the City to appoint one member so that they could be represented as well.

Councilman Little stated that he would like to nominate the City Manager. Council was in agreement.

Councilman Stronach asked if Mr. Bill Hunnicutt, Chief Operator of the Waste Treatment Plant could be appointed to the committee as well. The City Manager stated that they wanted only county and city board members on the committee, but could see no problems with Mr. Hunnicutt attending the meetings.

REPORTS:

1. SURVEY - BOYD PROPERTY: The City Manager stated that he had received the survey for the Boyd Property today. A short discussion followed. The City Attorney was directed to prepare the deed for the property.

2. COMPLAINT - OAK GROVE CEMETERY: The City Manager stated that Councilman Cross had received a complaint concerning the fence along the back of the Oak Grove Cemetery. He presented a video recording of the area and stated that it had been recommended that the fence be removed and the area mowed. Council was in agreement, however, they requested that guardrails be placed in the dangerous areas.

3. POLICE CHIEF - MONTHLY REPORT: The Police Chief stated that his enforcement of the Handicapped Parking had been going very well. He stated that he would like to know if Council had any objections if he were to write citations for persons parking illegally in the spaced marked only by the symbols painted on the parking lot. He stated that in the spaces with regulatory signs, he could write citations carrying a \$65.00 fine, where spaces with only the marking on the pavement was a \$5.00 fine. Council stated that they had no objections.

The Police Chief stated that Mayor Clark had suggested last year that a Shoplifting Class be held close to the Christmas season so that employees in the various stores could identify shoplifters easier. The Police Chief stated that he had not been able to get the materials together for the class in time last year, but he would be able to offer several classes this year.

3. MEDICAL INSURANCE - RATE INCREASE - MEETING: The City Manager stated that he had received a memorandum from the North Carolina League of Municipalities concerning rate increases in the policy that the City carries on its employees. He stated that the league would have a meeting in the Community Building for persons from this area on November 1, 1988 from 1:30 to 3:30.

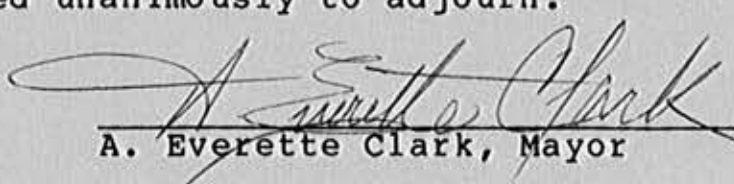
4. REPORT - WATER TANK: The Public Works Director stated that a meeting had been held with the Crom Corporation and Evans and Eller last week. He stated that it had been decided that the tank should be placed in service and in one year, Crom Corporation would come back and thoroughly check the tank for any leaks. He stated that they decided that in one year the leak would either be stopped or worse and it would be easier to find. .

Council stated that they would like to have a letter stating that the Crom Corporation understood that the City was accepting the Water Tank with certain conditions that if the tank continued to leak, Crom Corporation would be liable.

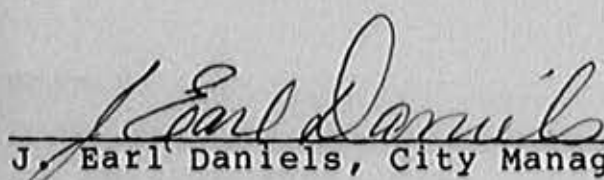
5. COUNCILMAN LITTLE - STREET LIGHTS - CLINCHFIELD: Councilman Little asked the Mayor and City Manager if they had discussed the street lights in the Clinchfield area with either the County or Gayley and Lord. Councilman Little stated that he was under the impression that each party would pay one-third of the cost for the street lights. The City Manager stated that he had spoken with them, however, he felt that City Tax Income should not be spent on street lights before the actual date of the annexation next July.

6. ABOVE GROUND TELEPHONE LINES: Mayor Clark stated that he and the City Manager had met with representatives from Contel concerning the above ground telephone lines. He stated that they had requested that any additional lines being installed be placed underground. Contel did not give them any indication that the lines would be placed underground.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

November 8, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, November 8, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Angus Stronach, John Cross, Robert Ayers, Steve Little, and Joe Tyler.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Allison, Secretary; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Albert Buckner, Marion Cab Company; Mr. and Mrs. James Shehan, Eagle Cab Company; Ms. Sandra Epperson, MACA; Mrs. Lee Lynch, Downtown Development Director; and Rev. George Hutchins, Boy Scouts.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the October 18, 1988 meeting.

MACA - REQUEST TO HANG BANNER OVER MAIN STREET: Ms. Sandra Epperson, Executive Director of MACA appeared before Council to request permission to hang a banner over Main Street the week of November 28 through December 3 advertising the annual Appalachian Potters Market to be held at McDowell High School on Saturday, December 3, 1988. Ms. Epperson also requested help from the City's bucket truck in hanging the banner.

The City Manager read a portion of the Signs and Banner Ordinance which states that banners and signs are prohibited, but that Council can approve banners or signs on an individual basis which are advertising community type events.

The City Manager stated that the City did not have any type of hardware or wire across the street to hang the banners that Ms. Epperson would have to get permission from Duke Power or an individual store owner to hang the banner.

Ms. Epperson stated that she would like to rescind her request because she thought that the necessary hardware to hang the banner was in place.

MR. ROGER SPRINKLE - JOHNSON PRICE & SPRINKLE - PRESENTATION OF 1987-1988 AUDIT: The City Manager stated that the audits had been included with the agenda packets for Council's review. He stated that Mr. Sprinkle was unable to attend the meeting and he would like to hold going over the audit until Mr. Sprinkle could attend a meeting. Council agreed.

COMMUNITY BUILDING - PROPOSED CHANGES OF RULES AND REGULATIONS: The City Manager stated that the Community Building Committee had met concerning persons using the building for profit making uses. He stated that he would like for a member of the Community Building Committee to read their proposal.

Councilman Ayers read the following proposal:

Rule 11. States "No person, organization, etc. may use the Community Building for commercial purposes. (It is the intent of this regulation to prohibit any person from using the building for personal gain).

Proposed Exception: Any commercial enterprise having a business building located within the City Limits and having a City Privilege License and/or other necessary license or permit may use the Community Building for no more than two (2) times per calendar year and no more than two (2) consecutive days each time for the purpose of display, demonstration and sales of materials, products and/or services which are sold and/or provided at the commercial enterprises main building located within the City.

The charge shall be two hundred dollars (\$200) per day or any portion thereof without the use of the kitchen facilities or three hundred dollars (\$300) per day or any portion thereof with the use of the kitchen facilities.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to accept the proposal of the Community Building Committee as outlined above.

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JOINT AGREEMENT - COMMUNICATIONS FREQUENCIES - RESOLUTION: The City Manager stated that he had prepared an agreement between the County Commissioners, City Council and Town of Old Fort concerning the new radio frequency proposed for the utility departments. He stated that the County had requested additional time to look at the agreement and that he would like to table the matter until the County responded. Council was in agreement.

MARION DEPOT - DECISION - REQUEST FOR DEPOT: Mrs. Lee Lynch, Downtown Development Director appeared before Council concerning the Marion Southern Railway Depot. Mrs. Lynch stated that she had received word from McDowell Technical Community College that they would not be able to use the depot. She stated that she had also received a letter from Southern Railway officials that a decision needed to be made by November 15, 1988 concerning the plans for the depot.

Mrs. Lynch stated that the Downtown Business Association would like for the City to request that the building be donated to the City and then lease it to the Downtown Business Association. She stated that she felt sure that the Downtown Business Association would be able to have fund-raisers to cover the provisions that Southern Railway required if they donated the depot to the City. The provisions are as follows:

- A. Insurance requirement \$1,000,000 liability coverage
- B. Official survey of the property
- C. Placement of a fence, running parallel to the main line, along the entire length of the property.

The City Manager stated that the main concerns of the City were a clause in the lease agreement that the City may be asked to remove the depot to another location within ninety days, and that they did not have a specific use for the building as the lease stated.

Councilman Ayers asked how the Downtown proposed to renovate the building. Mrs. Lynch stated that the Downtown Business Association hoped to put an office in the building and then work on renovating the older part of the depot as funds allowed. She stated that the building would be placed on the historic register and that as a member of the Preservation Society, they may be eligible for grants to help renovate the building.

Councilman Cross asked if it was safe to assume that the City would have no cost involved in the building. Mrs. Lynch stated that she felt that her board could cover the costs but that she would not turn down any donations if the City would like to help in that way.

Councilman Little made a motion for the City to inform Southern Railway Officials that the City did not want the depot and request that they donate it to the Downtown Business Association. Mrs. Lynch stated that she had asked the railroad about that possibility and that they were unsure if they could donate the building to a non-profit organization rather than a municipality. She stated that she hoped that the City would request the depot and lease it to the Downtown. Councilman Little withdrew his motion.

Mayor Clark stated that he would like to be in contact with the officials of the railroad with the proposal and follow up the results at the next meeting of Council.

TAXICABS - PROPOSED NEW ORDINANCE: The City Manager presented a copy of a proposed Taxicab ordinance to Council. He stated that the reason for the new ordinance was so that persons would have a better understanding of the costs which the present system allows. He stated that neither he nor the Chief of Police could understand the zone system presently in use due to the landmarks that the zone system had.

Councilman Little stated that he had a question about #3 -did that include groceries per bag? The Police Chief stated that he interpreted it as a maximum of fifty cents.

Mrs. James Shehan, of Eagle Cabs stated that she would rather go by zones, that her customers did not understand mileage and most of the customers were elderly and would not understand.

Councilman Little stated that the way he was interpreting the ordinance was that the taxicab owners could charge by the zone system as long as the mileage complied with the new ordinance.

The Police Chief stated that Council could leave the ordinance on a zone system, but that he would like to request the following:

1. That landmarks used for the ordinance be permanent locations, not

someone's residence.

2. That a maximum charge be set and a clear way of determining the cost for crossing over zones be set.

The City Manager stated that the most confusing part of the zone system was the way they were divided. He stated that you could be on one side of the street and be in one zone, but if you crossed the street, you were in a different zone.

Councilman Ayers asked if the committee did not consider a meter. The Police Chief stated that the ordinance allowed the drivers to have a meter, but if they could not afford it, they could use the mileage on the odometer.

The Police Chief stated that he had surveyed a group of people and that a lot of the people did not know where the landmarks for the present zone system were and that they could not tell him how to compute the cost of trips from point A to point B. He stated that he would like to have an ordinance he could understand and that others could understand. He stated that with the ordinance in effect now, he could not honestly prove a case in court because he would be unable to present a case without reasonable doubt.

Mayor Clark stated that he felt that the only fair way to work the system was to go to meters. Mr. Shehan stated that the meters were too expensive and that the present system had worked for twenty years and he did not believe that it should be changed now.

The City Manager stated that the taxicab owners would not have to purchase a meter that they could use the odometer reading. Mrs. Shehan stated that the drivers did not have time to stop and record mileage. The Police Chief stated that the cars had radios and that they could call the mileage into the station and have it recorded there.

Councilman Cross stated that Council realized that the taxicab owners knew and understood the zone system, but that they needed an ordinance that everyone could understand.

Mrs. Shehan asked if any member of Council had received a complaint that their company overcharged.

The Police Chief stated that he had received many complaints and that he could not enforce an ordinance that he could not understand.

Councilman Ayers stated that the customers could not understand why the different companies charged different rates for the same trip.

Councilman Stronach stated that he felt that the Taxicab Committee should meet to try and resolve the problem.

Mayor Clark stated that he would like to refer the matter to the Taxicab Committee for further study.

The City Manager stated that he would like to request that each taxicab company present a proposal to the committee rather than them attending the meeting as requested earlier.

(Ref: Minutes of . Councilman Little stated that he felt that it would be helpful if the taxicab owners were at the meeting.

GRIEVANCE COMMITTEE - APPOINTMENT OF MEMBERS: The City Manager stated that Mayor Clark needed to appoint, with the consent of Council, five members to the Grievance Committee as outlined in the bylaws adopted at the last meeting. He stated that the terms would be for a one year period.

Mayor Clark stated that he would like to appoint the following persons to the Grievance Committee:

Council Member - Angus Stronach
Buck Byrd
Will Twitty
Lee Dillingham
Debbie Warren
Arthur Edwards

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to consent to the Mayor's appointments.

LETTER - JENSEN ENGINEERING - REQUEST FOR PAYMENT: The City Manager stated that he had received two letters from Jensen Engineering. He stated that one letter had been included in the agenda packet, but the other one he had just received. He stated that he would like to inform Council that the second letter stated that Mr. Joel Storrow, the engineer from Jensen Engineering who was working on the Five-Lane Waste Treatment Facility would no longer be employed with that firm as

of November 4, 1988.

The City Manager stated that in the letter he had included with the agenda packet concerned the engineering and inspection fees charged on the Five-Lane Waste Treatment Facility. (Ref Minutes of September 13, 1988). He stated that the letter stated that Mr. Jensen hoped that there would be no additional charges for these fees and that there had been additional fees for extra work he had done such as moving the site.

Councilman Stronach stated that the limits were set for his fees when Mr. Jensen was at the previous meeting and that the limits were set by EDA/ARC Regulations. He stated that the only way he could bill the City extra would be for additional work not specified in the contract.

The City Manager stated that he would like to propose that all expense be broken down to specific amounts. He stated that he would like to request that additional work not included in the contract be sent to the City for pre-approval before the work is done.

Councilman Little stated that he agreed with the City Manager and that he would like to have a reason for the additional work.

Councilman Stronach asked how much money had been billed to the City that they had not paid. The City Manager stated that he had approximately \$14,000 in bills which would leave approximately \$19,000 in the account for inspection and engineering fees for the remainder of the project. He stated that he did not want to pay the entire amount before the project was even started.

Mayor Clark stated that he was in favor of asking for a breakdown of all the charges. He asked Council if they would like to pay a portion of the bills or would they like to hold the remaining funds until the project is finished.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to pay Jensen Engineering \$5,000.00, to hold the remaining funds until the project is complete and to request that all charges be broken down with additional charges being approved prior to completing the work.

TREE BOARD - RESIGNATION - MRS. NEDRA GREENLEE: The City Manager stated that he had received a letter from Mrs. Nedra Greenlee which stated that she was going to have to resign her position on the Tree Board. The City Manager stated that her term on the board would expire on January 21, 1989. He asked if Council would like to appoint someone now or wait until the term expired. He was instructed to contact Mr. Warren Hobbs, Chairman of the Tree Board to see if he had any suggestions as to who could be appointed.

LONGEVITY CHECKS: The City Manager stated that in the past, employees had been given longevity checks the last week in November. He stated that the employees were given one day's pay for each year of uninterrupted service with a maximum of one week's pay and a minimum of \$25.00. He stated that he would like to have Council's approval to issue the checks this year. Council was in agreement with issuing the longevity checks.

The City Manager stated that this was one area which was being looked into with a part of the Personnel Ordinance. He stated that some employees worked maybe a month and they were still given \$25.00. He stated that he would like to propose that in the future, the checks be given to employees who had worked six months or longer. Council was in agreement.

Councilman Ayers asked if the employees were going to be given turkeys this year. Council agreed that the employees should be given a turkey for Christmas.

BID TABULATIONS: The City Manager stated that the City had held a bid opening last Friday, November 4, 1988 for the purchase of four new vehicles. The bid tabulations were as follows:

1/2 TON PICK UP TRUCK:

1. Stamey Chrysler	unit price: \$ 8,530.68
	total: \$17,402.58
2. Darrell Ford	unit price: \$ 7,550.00
	total: \$15,402.00
3. Ballew Motor Company	unit price: \$ 7,510.08
	total: \$15,320.56

ONE TON TRUCK WITH UTILITY BODY:

1. Darrell Ford	gas engine: \$15,039.00
	diesel: \$15,969.00
2. Ballew Motor Company	gas engine: \$14,638.02


diesel: \$14,798.22

TWO TON DUMP TRUCK (LESS BED)


Only one bid was received for the two ton truck from Darrell Ford. It was not opened.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to allow the City Manager to accept the low bids.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION**

November 22, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, November 22, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, John Cross, Steve Little, Angus Stronach, and Joe Tyler.

OTHERS PRESENT: J. Earl Daniels, City Manager; Charles Burgin, City Attorney; LuAnn Allison, Secretary; Alvin Callahan, Building Inspector; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Ms. Vicki Nelson, Marion, North Carolina; Mr. Chris Newton, Marion, North Carolina; Mr. Albert Buckner, Marion Cab Company; Mr. and Mrs. James Shehan, Eagle Cab Company; Mr. Fred Williams, Duke Power Company; and Mr. and Mrs. Bill Greenlee.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the minutes of the October 27, and November 8, 1988.

MRS. NEDRA GREENLEE - CERTIFICATE OF APPRECIATION - TERM ON MARION TREE BOARD: Mayor Clark stated that he would like to present a certificate of appreciation to Mrs. Nedra Greenlee for two years dedicated service on the City of Marion Tree Board. He stated that Mrs. Greenlee had faithfully served on the volunteer committee and that her work was certainly appreciated.

TREE MEMORIALS - OAK GROVE CEMETERY: The City Manager stated that he had received a request for persons to place trees around the front and the perimeters of Oak Grove Cemetery in memory of someone. He stated that Mr. Rod Birdsong of the Chamber of Commerce had prepared guidelines for the placing of the trees.

Ms. Vicki Nelson appeared before Council concerning the placement of trees for memorials. She stated that she and another family were very interested in placing a tree at the cemetery in memory of someone. She stated that they felt that the cemetery was the proper place for the trees since the persons would be buried there.

The City Manager stated that the Tree Committee was currently planting trees at the cemetery so the project would fit in with their plans. He stated that he agreed with the guidelines because they did not obligate the City in any way.

Councilman Little stated that he felt that it was a good idea.

Councilman Ayers stated that he felt that the trees to be placed should be

coordinated with the Tree Board. The City Manager stated that the guidelines made reference to City Officials and that he felt that the Tree Board would be the appropriate officials to oversee the project.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to allow persons to place trees at Oak Grove Cemetery if they agreed to the following guidelines:

**PROPOSED GUIDELINES FOR
MEMORIAL PLANTINGS AT
OAK GROVE CEMETERY**

In memory of persons buried at Oak Grove Cemetery, friends and relatives of the deceased may have the opportunity to place a memorial planting on the grounds of the cemetery, as long as the following guidelines are met:

1. The planting desired by the sponsoring individual or group must receive prior approval from Marion City officials as to species of tree and location and date for the planting.
 2. All costs for the tree and its planting are the responsibility of the sponsor; whether the sponsor or City of Marion personnel plants the tree shall be at the discretion of City Officials.
 3. The sponsor, through signing this form, releases the City of Marion and its employees from any responsibility for upkeep and survival of the memorial planting, including watering, trimming, fertilizing, and weeding.
 4. If, in the opinion of the City Officials, the memorial tree needs to be relocated or cut down for any reason, such action may be taken by the City without notice to the sponsor. In the event the tree is cut down, the sponsor may have the option of requesting another planting under the same terms as specified above.
 5. A plaque, engraved marker, or other recognition of the deceased which the sponsor may desire to have placed at the planting site must be approved by City Officials. Such markers may not exceed 6 inches by 12 inches or 72 square inches, must not protrude above ground level, and should be made of metal, rock, or other equally durable material.
- I acknowledge and agree to all terms specified herein.

Signature: _____ Date: _____

Address: _____ Phone: _____

1987 - 1988 AUDIT - MR. ROGER SPRINKLE: Mr. Roger Sprinkle and Mr. Jim Isaacs of Johnson Price & Sprinkle, Certified Public Accountants appeared before Council to answer any questions concerning the audit for the year ending June 30, 1988.

Mr. Sprinkle stated that this was the first year that they had been able to give an "Unqualified Opinion" of the audit due to the fact that the City had a fixed asset program in place. Mr. Sprinkle stated that everything was in place and the City was in good shape. He stated that the audit had been approved by the Local Government Commission.

The City Manager stated that he would like to personally thank the auditors because they did work for the City besides the audit. He stated that some of the funds that were available to the City involved filling out lengthy reports. He stated that the auditors always prepared and submitted the reports to the proper persons.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to accept the 1987-1988 Audit as submitted.

TAXICAB ORDINANCE - REPORT FROM COMMITTEE: The City Manager stated that the Taxicab Committee had met and reviewed the proposed ordinance regulating taxicabs. He stated that the only questions in the ordinance was with the regulating of the fares.

The City Manager stated that both of the taxicab owners understand the zone system currently in use, however, one owner stated that it was difficult to train new drivers. The City Manager stated that he could not understand the zone system and the Chief of Police had problems with the system as well.

The City Manager stated that the proposed ordinance allows the option of using the odometer reading to compute the fares or to use a meter if the owners wished to purchase the product.

Mayor Clark asked if the committee had a firm recommendation for Council.

The City Manager stated that he knew how some of the members of the committee. He stated that he was unsure about the fares. He stated that if the rates were set would the taxicab driver have to charge that amount.

Councilman Ayers stated that he felt that a meter system was the only way to solve the problem. He stated that if a rate was set and someone else charged under the rate the problem would not be solved.

Mrs. James Shehan stated that she would like to know why the problem with the fares came up all of a sudden. She stated that they had been in business for several years and had never received a complaint.

Mayor Clark stated that he wanted to get the opinion of Council on what they wished to do concerning the ordinance.

Councilman Tyler stated that he thought that the committee had agreed to allow Mr. Shehan to operate on the zone system as long as the cost did not exceed the mileage system.

Councilman Cross stated that the proposal to allow Mr. Shehan to continue to operate on the zone system had been discussed but that he was concerned about the legality of the matter.

The City Manager stated that the Chief of Police had stated that the only sure way to enforce the ordinance would be to have a system set up on mileage.

Councilman Stronach asked if the recommendation was to allow the company to use either the mileage system or the zone system as long as the cost did not exceed the limits set by Council. Councilman Cross stated that it was discussed.

Councilman Little stated that he felt that the matter would always be confusing. He stated that when the Council went to Washington D.C. that they took the same route every day from the motel to the convention center but the taxi rate was different every day.

Mr. Shehan stated that he did not agree with charging \$2.00 for the first mile. He stated that the people in this community could not afford those rates.

Councilman Little stated that he could not agree with a set rate for fares. He stated that he felt that due to competition or regular customers, he felt that the companies should be able to allow a discount.

Councilman Ayers stated that he agreed with Councilman Little in giving discounts or allowing the rates to be flexible due to competition.

Chief Gilsdorf stated that he could easily enforce an ordinance if a maximum rate was set. He stated that he would like to request a rate card with the fares using the rates they charged.

Councilman Little made a motion to accept the taxicab ordinance if the first mile did not exceed \$2.00 and each tenth of a mile did not exceed ten cents. He stated that he would like to use either a odometer reading or a zone system as long as the cost did not exceed the figures above.

The motion was seconded by Councilman Tyler.

Councilman Ayers stated that he did not feel that the problem was being solved. He stated that he still felt that there would be complaints due to overcharging.

Councilman Cross stated that he could foresee problems but that he felt the motion was a good compromise and would support it.

The City Manager asked for an effective date for the ordinance. Council agreed that the effective date should be December 1, 1988.

The vote was as follows: Ayes: Councilmen Stronach, Tyler, Little and Cross. Noes: Councilman Ayers. The motion carried.

TAXICABS

DEFINITIONS.

The following terms when used in this article have the meanings ascribed to them respectively:

CALLBOX STAND: A place where the city has authorized a holder of a certificate of public convenience and necessity to install a telephone or callbox for the taking of calls and the dispatching of taxicabs.

CERTIFICATE: A certificate of public convenience and necessity issued by the city, authorizing the holder thereof the conduct of a taxicab business within the city.

CRUISING: The driving of a taxicab on the streets, alleys or other public places of the city in search of, or soliciting prospective passengers for hire.

TAXI DRIVER PERMIT: The permission granted by the city to a person to drive a taxicab upon the streets of the city.

OWNER: A person to whom a certificate of public convenience and necessity has been issued.

MANIFEST: A daily record prepared by a taxicab driver of all trips made by said driver, showing time and place of origin, destination, number of passengers, and amount of fare.

OPEN STAND: A public place alongside the curb of the street or elsewhere in the city which has been designated by the city as reserved exclusively for the use of taxicabs.

RATE CARD: A card issued by the city for display in each taxicab, which card contains the rates of fares then enforced.

TAXICAB: A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of less than six (6) persons and not operated on a fixed route.

WAITING TIME: The time when a taxicab is not in motion from the time of acceptance of a passenger to the time of discharge, but it does not include any time that the taxicab is not in motion due to any cause other than the request, act or fault of a passenger.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED.

No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of the city without having first obtained a certificate of public convenience and necessity from the governing body.

APPLICATION FOR CERTIFICATE.

An application for a certificate shall be filed with the city clerk upon forms provided by the city. Said application shall be verified under oath and shall contain the following information:

- (1) The name and address of the applicant.
- (2) Financial status of the applicant, including all unpaid judgements against the applicant and the nature of transactions or acts giving rise to said judgment.
- (3) The experience of the applicant in the transportation of passengers.
- (4) Any facts which the applicant believes tends to prove that public convenience or necessity require the granting of a certificate.
- (5) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.
- (6) The identification to designate the vehicles of the applicant.
- (7) Proof of financial responsibility.
- (8) Such further information as the governing body may require.

PUBLIC HEARING ON APPLICATION FOR CERTIFICATE.

Upon the receipt of an application, the governing body shall fix as soon as reasonably possible, a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom certificates of public convenience and necessity have been theretofore issued. Due notice shall also be given the general public by publishing a notice of such hearing in a newspaper having general circulation within the city. Any interested person may file with the governing body a memorandum in support of or in opposition to the issuance of a certificate.

ISSUANCE OF CERTIFICATE.

- (a) If the governing body finds that further taxicab service in the city is

required by the public convenience and necessity and the applicant is fit, willing and able to perform such public transportation and to conform to the provisions of this article and the rules promulgated by the board, and that applicant has filed proof of financial responsibility as required by state law, the board shall direct the city clerk to issue a certificate stating the name and address of the applicant, the number of vehicles authorized under said certificate, and the date of issuance. Otherwise, the applicant shall be denied.

(b) In making the above findings, the board shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public needs, the probable effect of increased service on local traffic conditions, the character, experience and responsibility of the applicant.

LICENSE FEE FOR CERTIFICATE HOLDER.

No certificate shall be issued or continued in effect unless the holder thereof has paid an annual license fee of ten dollars (\$10.00) each year for each vehicle authorized under a certificate of public convenience and necessity. Said license fees shall be for the calendar year ending December 31 and shall be in addition to any other license fee or charges established by proper authority and applicable to said holder or to vehicles under the operation and control of the holder.

TRANSFER OF CERTIFICATE.

No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred without the consent of the governing body.

SUSPENSION AND REVOCATION OF CERTIFICATES.

(a) A certificate issued under the provisions of this article may be revoked or suspended by the governing body if the holder thereof has:

- (1) Violated any of the provisions of this article.
- (2) Discontinued operation for more than ninety (90) days.
- (3) Has violated any ordinances of the city or the laws of the United States or of the state, which reflect unfavorably on the fitness of the holder to offer public transportation.

(b) Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard.

TAXICAB DRIVER'S PERMIT REQUIRED.

No person shall drive any taxicab carrying passengers for hire from place to place within the city unless that person shall have first applied to and secured from the Chief of Police a drivers permit to drive a taxicab. No person who owns or controls a taxicab shall permit it to be driven at any time for hire unless the driver of said taxicab shall first obtain and shall have then in force a taxicab driver's license issued under the provisions of this article. (G.S. 20-37).

APPLICATION FOR DRIVER'S PERMIT; APPLICATION FEE.

(a) An application for a taxicab driver's permit shall be filed with the Chief of Police on forms provided by the city, and such application shall be verified under oath and contain the following information:

- (1) The name, address, physical condition, and North Carolina license number of the applicant. (License required by the state to operate a taxicab)
- (2) The experience of the applicant in the transportation of passengers.
- (3) The educational background of the applicant.
- (4) The concise history of his employment, reaching back for a period of not less than five (5) years.
- (5) The names and addresses of four (4) residents of the city who have known the applicant for a period of not less than five (5) years and who will vouch for the sobriety, honesty and general good character of the applicant. Each application shall be accompanied by a certificate from a reputable physician of the city or county certifying that in his opinion the applicant is not afflicted with any disease or deformity which might make him an unsafe or unsatisfactory driver.

(b) At the time the application is filed, the applicant shall pay the city the sum of ten dollars (\$10.00).

POLICE INVESTIGATION OF DRIVER'S PERMIT APPLICATION.

If the application is rejected, the applicant may request a personal appearance before the governing body to offer evidence as to why the application should be reconsidered.

ISSUANCE OF DRIVER'S PERMIT; DURATION; ANNUAL FEE.

Upon approval of an application for taxicab driver's permit, the city shall issue a permit to the applicant which shall bear the name, address, age, signature and photograph of the applicant. Such permit shall be in effect for the remainder of the calendar year. A permit for every calendar year thereafter shall be issued upon the payment of two dollars (\$2.00) unless the permit for preceding year has been revoked. Permits expired for more than thirty (30) days will not be renewed.

(a) Notwithstanding other processes, each permittee must provide the city with an updated application, including a Physicians Certificate of health, every five (5) years.

(b) The permittee shall be responsible for maintaining all application information in a current status. Failure to notify the city of any changes within two (2) weeks of the change shall result in revocation or suspension for two (2) weeks.

DISPLAY OF DRIVER'S PERMIT.

Every driver authorized under this article shall post his driver's permit in such a place as to be in full view of all passengers while such driver is operating a taxicab.

SUSPENSION AND REVOCATION OF DRIVER'S PERMIT.

At any time after the issuance of a driver's permit under this article, the governing body may suspend said permit for a driver's failure or refusal to comply with the provisions of this article. The board may also revoke any driver's permit for failure to comply with the provisions of this article. However, no permit will be revoked until the driver has received notice and has had opportunity to present evidence in his behalf.

COMPLIANCE WITH LAWS BY DRIVER.

Every driver permitted under this article shall comply with all city, state and federal laws. Failure to do so will justify the governing body in suspending or revoking his permit.

VEHICLES TO BE LICENSED; EQUIPMENT; MAINTENANCE.

(a) Vehicles must be licensed: Prior to the use and operation of any vehicle under the provisions of this article, it shall be thoroughly examined and inspected by the police department and found to comply with state safety and equipment requirements and such reasonable rules and regulations as may be prescribed by the Chief of Police and the city manager. When the police department finds that a vehicle has met the standards as established by the city, the Chief of Police shall issue a license to that effect which shall also state the authorized maximum seating capacity of the vehicle.

(b) Periodic inspections. Every vehicle operating under this article may be periodically inspected by the police department at such intervals as shall be established by the Chief of Police to insure the continuing maintenance of safe operating condition, but at least once each year. Inspection shall include:

- (1) Verification of State Safety Inspection.
- (2) Verification of compliance with city ordinances.
- (3) Such other items as required by the Chief of Police.

(c) Vehicles must be kept in a clean and a sanitary condition. Every vehicle operating under this article shall be kept in a clean and sanitary condition according to rules and regulation promulgated the Chief of Police and furnished to the owner.

SAME-DESIGNATION OF TAXICABS.

Each taxicab shall bear on the roof thereof an electrically lighted sign or device bearing the name of the owner or cab company and in addition may bear on the outside doors an identifying design approved by the Chief of Police.

RATES OF FARE; CARD REQUIRED.

Rates for the use of taxicabs within the city limits of the City of Marion shall

be based upon mileage. Customers using taxicabs shall pay not more than:

(1) Two dollars (\$2.00) for the first mile of travel and ten cents (\$0.10) for each one-tenth (1/10) of a mile of travel thereafter.

(2) There shall be an additional charge of one dollar and fifty cents (\$1.50) for each ten (10) minutes of waiting time or major fraction thereof, when the customer is out of the taxicab or when waiting is at the request of the customer.

(3) There shall be a charge of twenty-five (\$0.25) for each trunk or piece of heavy baggage handled by the taxicab driver.

(4) There shall be an additional charge of fifty cents (0.50) for handling groceries or laundry if the driver is required to leave the vehicle.

The mileage charged to a customer shall be based upon the odometer reading of the taxicab or other taxicab meter approved by the Chief of Police. The owner of the taxi company shall cause each vehicle under his ownership and in active use for purpose of vehicles for hire to be inspected for accurate odometer and/or other approved taxicab meter reading at least semiannually. The owner must maintain the inspection records for each vehicle and provide copies of said records to the Police Department for inspection by the city and the public. Upon inspection, if any odometers or other approved taxicab meters are found to be inaccurate the owner shall cause same to be repaired and appropriate records maintained.

Every taxicab operated under this article shall have a rate card setting forth the authorized rates of fare and displayed in such a place as to be in view of all passengers. Further, the odometer and/or other approved taxicab meter in each taxicab shall be kept clear of any obstructions in order for customers to view the odometers to assure proper mileage charges.

RECEIPTS.

The driver of any taxicab shall upon the request of any passenger render to such passenger a receipt on which shall be the name of the owner, the amount of the charges, and date of transaction.

SOLICITATION, ACCEPTANCE AND DISCHARGE OF PASSENGERS.

(a) Solicitation of passengers by drivers: No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of such taxicab or while standing immediately adjacent to the side thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is on the public street, except that when necessary a driver may be absent from his taxicab for not more than ten (10) consecutive minutes and provided further that nothing herein contained shall prohibit any driver from alighting to the street or sidewalk for the purpose of assisting a passenger into or out of such vehicle.

(b) Prohibited methods of solicitation: No driver shall solicit patronage in a loud or annoying tone of voice or by sign or any manner annoy any person or obstruct the movement of any person or follow any person for the purpose of soliciting passengers.

(c) Receipt and discharge of passengers: Drivers of taxicabs shall not receive or discharge passengers in the roadway except as herein set out, but shall pull up to the right-hand sidewalk as nearly as possible or in the absence of a sidewalk, pull to the extreme right-hand aide of the road and receive or discharge passengers; except that upon one-way streets passengers may be discharged at either the right or left-hand sidewalk or side of the roadway in the absence of a sidewalk.

(d) Cruising: No driver shall cruise in search of passengers.

(e) Additional Passengers: No driver shall permit any person to occupy or ride in said taxicab unless the person first employing the taxicab shall consent to the acceptance of the additional passengers.

(f) Restriction on number of passengers: No driver shall permit more persons to be carried in a taxicab as passengers than the authorized maximum seating capacity of the taxicab as stated in the license for said vehicle issued by the Chief of Police. A Child in arms shall not be counted as a passenger.

(g) Refusal to carry orderly passengers prohibited: No driver shall refuse or neglect to convey any orderly person upon request, unless previously engaged or unable or forbidden by the provisions of this article to do so.

(h) Position of Passengers: It shall be unlawful for the driver of any taxicab to permit any person to ride other than within the passenger compartment of said vehicle, and it shall be unlawful for any such person to ride other than within the passenger compartment of the vehicle.

(i) Drivers not to deceive passengers. No driver shall deceive or attempt to deceive any passenger or prospective passenger as to his destination or rate of fare to be charged, nor shall he convey or cause to be conveyed any passenger to a place other than directed, nor shall he take a longer route to the destination directed by the passenger than necessary, unless requested to do so by the passenger. All drivers shall comply with all reasonable and lawful requests of passengers as to speed and routes to be taken.

(j) Lost articles to be returned to owner. Every driver shall thoroughly search his taxicab at the termination of each trip for lost articles which may be left in the cab by passengers, and any articles found shall be immediately returned to its rightful owner, if he be known; otherwise, it should be deposited with the owner or operator of cabs and shall, within twenty-four (24) hours, be reported and turned over to the police department.

SALE OF INTOXICATING BEVERAGE; SOLICITING FOR PROSTITUTION.

It shall be unlawful for any driver of a taxicab to engage in selling intoxicating beverages or solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

MANIFEST.

(a) Every driver shall maintain a daily manifest upon which are recorded trips that are made each day showing time and place or origin and destination of each trip, and all such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for each manifest shall be furnished to the driver by the owner and shall be of a character approved by the Chief of Police.

(b) Every holder of a certificate of public convenience and necessity shall retain and preserve all manifests in a safe place for at least the calendar year next succeeding the current year, and all manifests shall be available to the police department for examination at any time.

QUALITY OF SERVICE.

All persons engaged in the taxicab business in the city shall render an overall service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business for the purpose of receiving calls and dispatching cabs, and may provide an alternate telephone where calls are to be received during other than usual business hours. They shall answer all calls received by them for services inside the city as soon as they can do so, and if said services cannot be rendered within a reasonable time, they shall then notify the prospective passengers how long it will be before the call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere within the city at any time when such holder has available cabs, or who shall fail or refuse to give overall service shall be deemed a violator of this article and the certificate granted to such holder may be revoked at the discretion of the governing body.

OPEN STANDS.

(a) The governing body may establish open stands in such places upon the streets of the city as it deems necessary for the use of taxicabs. The board will not create an open stand without taking into consideration the needs for such stands by the companies and the convenience of the general public. The board may prescribe the number of cabs that shall occupy such open stands. The board shall not create an open stand where such stands would tend to create traffic hazards.

(b) Open stands shall be used by different drivers on a first come, first serve basis. The driver shall pull on to the open stand from the rear and shall advance forward as cabs ahead pull off. Drivers shall stay within five (5) feet of their cabs. They shall not solicit passengers or engage in loud or boisterous talk while at an open stand. Nothing in this section shall be construed as preventing a passenger from boarding the cab of his choice that is parked at an open stand.

CALLBOX STANDS.

(a) The governing body may authorize the holder of a certificate to establish callbox stands upon private property abutting upon the streets in such places as in its discretion it deems proper. A holder desiring to establish a callbox stand shall make written application to the board. Upon filing of such application, the police department shall investigate the effect of such stand on traffic conditions at said place and shall thereafter submit a written recommendation to the board. No holder shall obtain a permit for more than one callbox stand within the downtown business area.

(b) A holder operating a callbox stand shall be allowed to have on duty at such

stand a starter or other employee for the purposes of assisting in loading of passengers, of receiving calls, of dispatching cabs, and of the soliciting of passengers, at such stand. The words "at such stand" shall mean that part of the sidewalk immediately adjacent to and of equal length to the width of such callbox stand. It shall be unlawful for any such starter or other employee to go beyond the area herein designated for the purpose of soliciting passengers or assisting them in boarding such cabs.

PENALTIES FOR VIOLATION.

(a) Any person, owner and/or operator or driver who shall violate any provision of this article shall be subject to penalties as provided in this article and for the purpose of this article, it shall be considered that each day during which any provision of this article is violated shall constitute a separate and distinct offense.


(b) Any person, owner and/or operator or driver who violates any of the provisions of this article shall be guilty of a misdemeanor and fined fifty (\$50.00) dollars. In the event the person violating any provisions of this article is a corporation, the officer, agent or employees thereof, who shall violate or procure, aid or abet any violation of any of the provisions of this article shall be subject to the same penalties as if he himself had committed such violation, and upon conviction of any violation of the provisions of this article, the governing body may suspend or revoke any certificates of necessity held by such person; and the Chief of Police may suspend or revoke the permit of any driver for the violation of any provisions of this article.

This ordinance shall be in full force and effect on December 1, 1988.

Adopted this the 22nd day of November, 1988.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Clerk/City Manager

State Law reference -Authority to regulate, G.S. 160A-304 related (G.S. 18B-401 (b); G.S. 20-4.01 (27); G.S. 20-87; G.S. 20-280; G.S. 20-37; G.S. 20-143.1 (p); G.S. 20-113

JOINT AGREEMENT - COMMUNICATIONS FREQUENCIES - RESOLUTION: The City Manager stated that he had not been in contact with the County Manager and that he would like to hold this matter until the next meeting.

APPOINTMENT TO TREE BOARD - RESIGNATION OF NEDRA GREENLEE: The City Manager stated that Mr. Warren Hobbs, Chairman of the Tree Committee had been contacted for a recommendation. Mr. Hobbs was to contact the City, but he had not done so yet. The matter was tabled until the next meeting.

HICKORY CONSTRUCTION COMPANY - CHANGE WORK ORDER #1: The City Manager presented Change Work Order #1 from Hickory Construction Company to Council. The Change Work Order allows for a deduct in the amount of \$25,967.00 as follows:

1. Paint substitution -	\$16,000.00
2. Access Road - delete stone	2,134.00
3. Delete Access Gate	325.00
4. Reduce valve vault size	2,355.00
5. Revise misc. metals	2,448.00
6. Delete dewatering pump	1,580.00
7. Delete storm inlets	1,125.00
	\$ 25,967.00

Councilman Tyler stated that he did not feel comfortable with deleting the storm inlets. The City Manager stated that he had talked with Mr. Curt Eckerd of Hickory Construction and asked him if he felt that the City should leave these items in, especially the epoxy paint. He stated that Mr. Eckerd informed him that he felt that the items listed above were unnecessary.

Mr. Tyler was informed that the area where the storm inlets were to be that the only thing being deleted was the box surrounding the pipe and that area would be graveled.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to accept Change Work Order #1 - Hickory Construction Company in a reduction of the cost in the amount of \$25,967.00.

HOLIDAY SCHEDULE: The City Manager stated that some confusion concerning the holiday schedules followed by the City and County had arisen. He stated that the County employees were allowed four more holidays than City employees as follows: two days at Thanksgiving, three days at Christmas, Memorial Day and Veteran's Day. He stated that he would like to have Council's opinion concerning the matter. He stated that the only problems with changing the system was with the shift workers.

Councilman Little stated that the City had different needs from the County and that he felt that the holidays should remain the same except that he would like to see that Good Friday be given off for the Easter Holiday rather than Easter Monday.

The City Manager stated that another problem had developed, that the City had hoped to allow commercial garbage pick-up to be uninterrupted, however, the County landfill would be closed on Thursday so if the City people worked, they would have no place to empty their trash.

Councilman Stronach stated that he agreed with Councilman Little's suggestions.

Council was in agreement to leave the holiday schedule as it is.

The City Manager stated that he would like to mention that the employees in the office had talked about the Good Friday and Easter Monday holiday and that they all agreed that they preferred Easter Monday. He stated that Monday was also a good day in reference to payroll since it was done on Friday and would not have to be done earlier.

LIABILITY INSURANCE - RENEWAL: The City Manager stated that he had received a notice from Mr. Marshall Dark of McDowell Insurance concerning the expiration of the liability insurance. He stated that if they renewed the policy as proposed that it would expire in July and all of the insurance would be due at one time.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to renew the liability insurance with a \$5,000.00 deductible and of the occurrence type policy.

REPORTS:

1. PURCHASING OUT OF COUNTY: The City Manager stated that the City was trying to have a centralized purchasing system and that they had been asked if they would accept out of county bids for fuel oil. He stated that the current City policy stated that purchases would be made in the City first and then the County, but that if the prices were lower somewhere else to go where the prices were better.

The City Manager stated that he would like Council's opinion in regard to fuel oil. Councilman Stronach stated that he would like to suggest that the other counties or municipalities be contacted as to their policies before any action was taken so that the local companies would not be disturbed. Council was in agreement.

2. INSPECTION - FIVE LANE WASTE TREATMENT FACILITY: The City Manager stated that he had included in the agenda, copies of the inspection reports from the inspector on the progress of the project. He asked if Council would like to continue to receive the reports. They stated that they would.

The City Manager stated that included in the report was a section referring to two trees located on the property and removing fill dirt where the mobile home was located on the former Huskins property. He stated that he would like to have Council's opinion on the matter. Council agreed to have the trees removed since the lines for the facility would run through the area at the trees. Council also agreed to request that the area where the mobile home was removed be built back up so that the area could act as a buffer if the area flooded.

3. CHRISTMAS PARADE: The City Manager stated that the Christmas Parade would be Saturday, December 10 at 10:00 A.M. and that Council had been invited to ride in the Parade.

4. LONGEVITY CHECKS: The City Manager stated that Mayor Clark would be handing out the longevity checks on Wednesday, November 16, 1988 at 4:00 P.M. in the Community Building. He stated that Council was invited to attend if they wished to.

5. COUNCIL CHRISTMAS DINNER: The City Manager stated that the annual Christmas Council Dinner would be on Tuesday, December 20, 1988 at 6:30 at the Crossbow. He stated that they would be eating from the buffet unless they wished to order from the menu.

6. DUKE POWER - REQUEST FOR POLES FOR BANNERS ON MAIN STREET: Councilman

Stronach asked Mr. Fred Williams of Duke Power what the process would be to have two poles on Main Street donated to the City for banners. Mr. Williams stated that he would have to remove the lights and wires from the poles and release Duke Power from ownership of the poles.

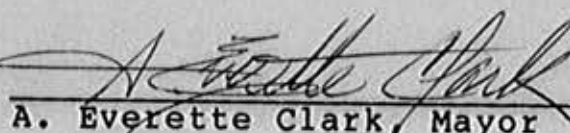
The City Attorney was asked what the City's liability would be regarding the poles in case of an accident. Mr. Burgin stated that the liability depended on the circumstances, but would recommend that the City have an agreement in writing that the persons hanging the banners would assume liability.

The City Manager stated that Main Street was a state maintained road so D.O.T. would have to be contacted to see if they would allow banners to be hung.


Mayor Clark asked that the City Manager check with D.O.T. to see if they would allow banners to hang over Main Street before Duke Power was asked to donate the poles to the City.

EXECUTIVE SESSION - POSSIBLE LEGAL MATTER: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to go into Executive Session to discuss an easement for the 5 - Lane Waste Treatment Facility with the City Attorney and also a payment to Jensen Engineering for engineering services. Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to return to Regular Session.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION**

December 6, 1988

The City Council for the City of Marion met in Regular Session on Tuesday night, December 6, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, John Cross, Steve Little, Angus Stronach, and Joe Tyler.

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Bill Gilsdorf, Chief of Police; Arthur C. Edwards, Fire Chief; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Chip Cross, United Way; Mr. Fred Williams, Duke Power Company; and Mr. Carthel Cuthbertson, Boy Scout Troup 210.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the November 22, 1988 meeting.

UNITED WAY PRESENTATION: Mr. Chip Cross, Co-Chairman of the McDowell County United Way, presented a plaque of appreciation to the City of Marion for administrative contribution. He reported that the 1988-89 goal was exceeded. He attributed this to contributions in the governmental division. He commended the City Council's action to allow contributions by payroll deductions.

BOY SCOUT TROUP 210: Mayor Clark presented a check in the amount of \$200.00 to Mr. Carthel Cuthbertson, Scoutmaster, of Boy Scout Troup #210 for delivering the Annual Report to the Citizens on Saturday, December 3, 1988 to the residents of the City of Marion. He expressed the appreciation of the City Council for this service provided by the scouts.

MARION TREE BOARD - APPOINTMENT OF MEMBERS: The City Manager advised Council that he did not have a recommendation for appointment of a member to the Marion Tree Board and asked that this matter be tabled until the next meeting.

SIGNS AND BANNERS ACROSS MAIN STREET: The City Manager advised Council that he had received an ordinance from the D.O.T. concerning hanging of banners over Main Street. The ordinance prohibits hanging any type banner or sign over the right-of-way of the State maintained street.

JOINT AGREEMENT - COMMUNICATION EQUIPMENT: The City Manager stated that the county is waiting on needed information concerning the communication agreement and asked that this matter be tabled until the next meeting.

CATAWBA RIVER WASTEWATER TREATMENT PLANT - DISINFECTION SYSTEM: The City Manager informed the Council that Hickory Construction Co, had looked into the possibility of using Trojan Technologies Ultraviolet Disinfection System in lieu of the Fisher & Porter system.

The City Manager stated that Bill Hunnicutt, Chief Operator, of the Waste Treatment Plant had expressed a concern about using the Fisher & Porter System because of problems experienced in the past.

Mr. Hunnicutt stated that he feels the Trojan Technologies Ultraviolet System would be satisfactory for treatment of residential sewage.

The City Manager stated that to change to the ultraviolet system would result in a cost increase of \$1,633.00.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to use the Trojan Technologies Ultraviolet Disinfection System at the North Marion Waste Treatment Plant.

WASTEWATER PLANTS - PRETREATMENT REGULATIONS: The City Manager informed Council that he had received notification that present pretreatment permits do not comply with Federal and State Pretreatment regulations. It was recommended that flow limits and monitoring requirements be established for all permits. Appropriate changes to bring the permits into conformity with Federal and State regulation must be made within 60 days of receipt of this notification.

Mr. Bill Hunnicutt, Chief Operator, of the Waste Treatment Plant suggested getting the industries involved since changes in pretreatment permits would effect them directly.

The City Manager was directed to set up a meeting with the City and representatives of each industry requiring pretreatment permits.

TCI CABLEVISION - RATE INCREASE: The City Manager stated that the monthly service charge for basic cablevision would be increasing to \$16.50 per month due to an increase in production cost and competition among cable programmers for new and exclusive shows.

Councilman Little stated that he felt the increase cost to provide exclusive shows should be added to the monthly charge for pay-channel rather than the cost of the basic cable service.

Councilman Ayers stated that he felt that a telephone number should be provided for night, weekends and holidays when outages occur.

POLES: The City Manager stated that he had been advised by the State that poles for traffic signals in the downtown area could be installed two ways: (1) steel poles all the way across the street; or (2) a pole on each corner with one arm extension.

He stated that the cost involved in placing a pole on each corner would be much more than had been budgeted. He asked for direction from the Council.

It was the general consensus to proceed one intersection at a time as funding would permit.

PROPERTY PURCHASE: The City Manager presented a letter from Mr. Robert Hunter, Attorney at Law, concerning the purchase of approximately 6 acres of property located behind Hook & Anchor Family Seafood.

The City Manager stated that the owner of the property had requested a thirty foot roadway be left open to provide him access to his property. Duke Power Company will not allow a roadway under their right-of-way line. The agreement stated that the roadway will be developed to City specifications but does not stated who will pay for it. In keeping with City policy, the roadway will be developed by the property owner and then the City would take over maintenance when it is annexed.

The property owner is currently providing a strip of land approximately 7 feet

wide adjoining Shop Drive. The existing fence will have to be relocated to provide Mr. Boyd access to this proposed road. The City Manager stated that he felt some clarification was needed concerning who would retain ownership of the strip of land along Shop Drive and the proposed roadway to serve as access to Mr. Boyd's property.

Councilman Tyler, Councilman Stronach and the City Manager will meet with Mr. Hunter to work out the necessary details.

REQUEST FOR FIRE HYDRANT: The City Manager stated that he had received a request from Georgia-Pacific to connect to the City's water system for the purpose of installing a fire hydrant on their property for fire protection.

Mayor Clark stated that he did not have a problem with a fire hydrant for fire protection, but did feel that there should be safeguards to protect the City's water system.

The City Manager stated that should the request be approved, installation of the fire hydrant and any necessary line would be installed at the expense of the property owner.

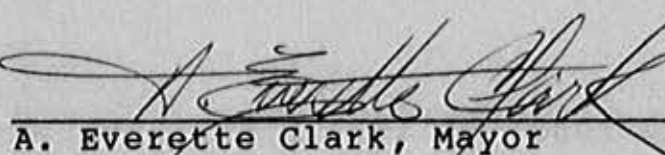
Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the request for permission to connect to the City's water system and the installation of a fire hydrant for fire protection.

EMERGENCY MANAGEMENT REVIEW: The City Manager presented Council with a copy of McDowell County Emergency Operations Plan. He asked that each Councilman review the plan before any action to approve the plan is made.


EXECUTIVE SESSION: Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to go into Executive Session.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to return to Regular Session.

ADJOURNMENT: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

January 3, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, January 3, 1988 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Angus Stronach, Joe Tyler, Robert Ayers, John Cross, and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: None.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the December 6, 1988 meeting.

WATER STORAGE TANK - WARRANTY - LETTER FROM CROM CORPORATION:
The City Manager stated that he had received a letter from Mr. Lars Balck, Jr. of the Crom Corporation. The letter stated that the prestressed concrete tank that the Crom Corporation built for the City of Marion should last indefinitely.

The letter stated that the company was unsure at this point where the leak of approximately one gallon of water per day was coming from. The letter stated that on July 4, 1989, representatives from the corporation would be back to Marion to dive into the tank to see if the leak could be located.

The letter also stated that the tank had a four year guarantee from their corporation which would begin with the expiration of the general contractor's Performance and Payment Bond. The letter stated that Mr. Balck had been in contact with their Surety concerning a four year maintenance bond but they were concerned with the cost of the bond.

The City Manager stated that he had talked with Mr. Gary McGill, City Engineer concerning the bond. Mr. McGill stated that he was familiar with the Crom Corporation and he felt that they would stand behind their tank if the problem continued. He stated that the City had three options: 1. To accept the letter as a written document that the Crom Corporation would repair the tank; 2. To require that the Crom Corporation provide the City with a Surety Bond; and 3. That the City require that Crom Corporation provide a bond, but share in the cost of the bond.

Mayor Clark stated that he felt that the City should have a bond from the company in case something did happen to the tank.

Councilman Little stated that he felt that the bond was a good idea as well, that if something were to go wrong with the tank that the company's only option would be to go to bankruptcy court and that the City would be responsible.

Councilman Stronach stated that he felt that the City should get in touch with Evans, Eller and Associates and ask them to help with the cost of the Surety Bond. He stated that at the last meeting with the engineer and contractors, he thought that Evans, Eller was to provide the City with a letter concerning their one year warranty. Councilman Stronach asked if the letter had been received. He was advised that the letter had not been received.

Mayor Clark asked if the tank had been accepted. The City Manager stated that the final inspection had not been completed and the City accepted the tank with conditions that the leak would be repaired. He stated that the City was holding the remainder of funds due to the contractor until a decision is made on the warranty.

Councilman Cross stated that he thought that the City Manager should contact Evans, Eller and Associates and share the letter from the Crom Corporation with them concerning the Surety Bond and ask for their comments. He stated that he felt that this would be better than asking for them to share in the cost of the bond.

Mayor Clark stated that he felt this was a good idea and that he thought that Gary McGill should be informed of what was going on.

Councilman Tyler stated that he was in favor of the insurance whether the City had to pay for the Surety or not. Council was in agreement.

Councilman Stronach stated that he felt that the matter needed to be resolved and that he did not see any need in waiting for the next meeting if a decision needed to be made. Council was in agreement.

RESOLUTION - FIRE COMMISSION - RADIO FREQUENCY: The City Manager stated that he had received a copy of a resolution adopted by the County Commissioners concerning the radio frequency for the McDowell County Fire Commission.

The City Manager read the sections of the Resolution as follows:

1. That the McDowell County Fire Commission shall be authorized to operate its fire and fire related functions on local government frequency 155.040 MHZ fire repeater frequency 153.875 MHZ and state fire frequency 154.280 MHZ.
2. That no transmitting equipment be installed on said frequencies without permission being granted by the McDowell County Fire Commission.
3. That no other person, firm or corporations may transmit on said frequency's 155.040 MHZ, 153.875 MHZ, 154.280 MHZ granted by the FCC without the formal written consent of the McDowell County Fire Commission.

The City Manager stated that he felt that if this Resolution was adopted that there would be potential problems with overtime pay for firemen. The Resolution provides for the McDowell County Fire Commission to be in total control of agencies allowed on the frequencies. This means the City would have no say in the matter but would have to pay for all overtime created by additional agencies added.

Mayor Clark stated that he had talked with Fire Chief Arthur Edwards and that he

could see a potential problem with the Resolution.

Councilman Stronach suggested that the City Manager discuss the City's position with the County Manager and possibly put this item on the Agenda for the Joint Meeting to be held this month.

The City Manager stated that he would contact the County Manager concerning problems with the Resolution.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to table the Resolution until the next meeting of Council.

RESOLUTION - PUBLIC WORKS - RADIO FREQUENCIES: Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adopt the following Resolution:

RESOLUTION

WHEREAS, the City of Marion Fire Department and the Public works Department has been operating its radio communications equipment as authorized by the FCC on 155.040 MHZ; and

WHEREAS, all volunteer fire departments in McDowell County are presently operating radio communications equipment on the same frequency; and

WHEREAS, it would be more desirable for all fire departments in the County to operate on the same frequency but a different frequency from public works departments; and

WHEREAS, the Public Works Department for McDowell County does not presently have any communications equipment; and

WHEREAS, the Public Works Department for the Town of Old Fort does not presently have any communications equipment; and

WHEREAS, McDowell County has obtained a new frequency from the FCC, said frequency being 154.155 MHZ; and

WHEREAS, McDowell County has agreed that this new frequency can be used by the public works departments of the County, the City of Marion, and the Town of Old Fort.

NOW, THEREFORE, BE IT RESOLVED by the McDowell County Board of Commissioners, the Marion City Council and the Old Fort Board of Aldermen as follows:

1. That the Public Works Departments of each unit of government shall be authorized to use the new frequency of 154.155 MHZ for communications.
2. That no transmitting equipment will be installed, on said frequency, in any equipment or buildings not directly owned and/or leased by one of the governmental units, without permission being granted by all three governmental units in writing.
3. That each governmental unit may purchase and use portable radio/transmitters on said frequency, provided the persons using the equipment are paid employees of one of the governmental units.
4. That no other persons, firms, or corporations may transmit on the Local Government frequency 154.155 MHZ granted by the FCC without the written permission of all three governmental units.

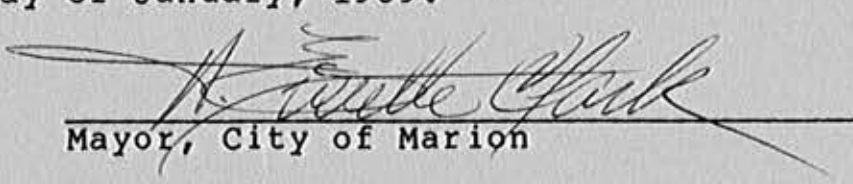
ADOPTED this the 19th day of December, 1988.

Chairman, McDowell County
Board of Commissioners

ATTEST:

Clerk to the Board

ADOPTED this the 3rd day of January, 1989.



Mayor, City of Marion

ATTEST:

Edmund Smith
City Manager/City Clerk

ADOPTED this the _____ day of _____, 1989.

Mayor, Town of Old Fort

ATTEST:

Town Clerk

FIREMEN'S RELIEF FUND - APPOINT ONE MEMBER: The City Manager stated that he had received a memorandum from Fire Chief Arthur Edwards stating that Councilman Steve Little's term on the Firemen's Relief Fund had expired on December 31, 1988.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to re-appoint Councilman Steve Little to the Firemen's Relief Fund for a period of two year term.

TREE BOARD - APPOINT TWO MEMBERS: The City Manager stated that the term of Mrs. Nedra Greenlee had not been filled since her resignation from the Tree Board and that Mr. Ralph Rutherford's term on the Tree Board would expire on January 20, 1989.

Mayor Clark stated that he had talked with Mr. Warren Hobbs, Chairman of the Tree Board concerning the appointments. He stated that Mr. Hobbs had indicated that he would like for Mr. Rutherford to be re-appointed for a three year term.

Mayor Clark stated that he would like to appoint Mrs. Ann Hensley of Garden Street to the Tree Board if she would accept. He stated that Mrs. Hensley was very active in the garden clubs and was responsible for the work around the Post Office.

Mayor Clark stated that Mr. Hobbs had stated that he would like for a member of Council to be appointed to the Tree Board in an "Ex-Officio" capacity. Mayor Clark stated that he would like to appoint Councilman Tyler to the Tree Board.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to accept Mayor Clark's appointments to the City of Marion Tree Board.

APPOINT INSURANCE COMMITTEE - RE: CITY INSURANCE COVERAGE: The City Manager stated that he had asked Mayor Clark to appoint two Councilmen to serve with him on an Insurance Committee. He stated that they would be looking at the City's present coverage, meeting with the carriers and to make recommendations to Council as to what type coverage they felt that the City needed to have.

Mayor Clark stated that he would like to appoint Councilman Stronach and Councilman Cross to the Insurance Committee. Council was in agreement.

APPOINT BUILDING COMMITTEE - RE: NEW CITY HALL FACILITIES: The City Manager stated that the present City Hall building was built in 1936 and that the space was becoming more and more cramped. He stated that the fire truck bays are too small to house new fire truck. One new truck is needed by 1991.

The City Manager stated that the offices upstairs had been remodeled to allow more space but that in one case, three persons were still sharing one office. He stated that he had requested that Mayor Clark appoint a Building Committee to look at plans to expand the facility.

Mayor Clark stated that he would like to appoint Councilman Ayers and Councilman Little to serve on the Building Committee. Council was in agreement.

MAIN STREET - MUNICIPAL AGREEMENT - D.O.T. - RESOLUTION: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

**COPY OF A RESOLUTION PASSED BY THE CITY COUNCIL
OF THE CITY OF MARION, NORTH CAROLINA**

A motion was made by Councilman Stronach and seconded by Councilman Tyler for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

WHEREAS, the North Carolina Department of Transportation and the City of Marion propose to make certain street and highway improvements consisting of the construction of curb and gutter on Main Street (US 221-70 & NC 226) from Railroad

Overpass to Fort Street in Marion; and

WHEREAS, the Department of Transportation and the City of Marion propose to enter into an agreement for construction of the aforementioned highway improvement whereby the City of Marion agrees to design the project plans, acquire the right of way and adjust utilities, award the construction contract, and supervise the project construction; and,

WHEREAS, said agreement provides for the City of Marion to be responsible for the costs of design and preparation of plans for the entire project, for the costs of engineering and supervision of construction of the entire project, and for administrative costs incurred in the acquisition of right of way of the project; and

WHEREAS, said agreement further provides for the City of Marion to assume all responsibility for problems which may arise due to changes in the existing drainage system; and,

WHEREAS, the City of Marion agrees not to request that the Department of Transportation include in its Transportation Improvement Program any further improvements on this portion of Main Street; and,

WHEREAS, said agreement further provides for the Department of Transportation to reimburse the City of Marion to a maximum extent of \$31,000.00 for the actual contract construction costs of the project.

NOW THEREFORE, BE IT RESOLVED that Project 9.8131632, McDowell County, is hereby formally approved by the City Council of the Municipality of Marion and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

I, J. Earl Daniels, Clerk of the Municipality of Marion, do hereby certify that the foregoing is a true and correct copy of excerpts from the Minutes of the meeting of the City Council duly held on the 3rd day of January, 1988.

WITNESS, my hand and the official seal of said Municipality on this the 3rd day of January, 1988.

CLERK
MUNICIPALITY OF MARION
NORTH CAROLINA

CRIME STOPPERS PROGRAM: The Chief of Police presented information to the City Council concerning organizing a Crime Stoppers program in Marion.

The Police Chief stated that the program worked with a Board of Directors in control. He stated that the law enforcement agencies using the program submitted crimes to be used for the program and that the Board chose which crimes would be used and set the amount of rewards to be given for information to solve the crime.

The City Manager stated that he had been in contact with the League of Municipalities concerning the City's involvement with contributions to the rewards. He stated that he had been advised that the City had no authority to contribute in any manner to a reward.

The Police Chief stated that the organization was used in Buncombe County and they had solved approximately one hundred cases from the anonymous tips they had received. He stated that he would like to mention that members of the law enforcement agencies were not allowed to be on the Board and that the informants were kept anonymous at all times.

The Police Chief stated that the only things they would need besides an initial amount to give as rewards would be a telephone and line with a tape on it. He stated that the program could be kept on a local level and use the newspaper and radio rather than doing costly commercials.

Mayor Clark asked if there was a cost to join the organization since it was nationally chartered. The Police Chief stated that he did not believe that there was a fee. Mayor Clark stated that he felt it was a good idea.

Councilman Stronach stated that he was in favor of participating in whatever capacity that the City could.

Councilman Little stated that he was also in favor of the program and that possibly citizens would be willing to make contributions to the program. The Police Chief was asked to get more information and bring it back to Council.

SKATEBOARDS - REPORT: The Police Chief stated that he would like to make Council

aware that the skateboard ordinance had not changed despite the recent complaints and media coverage of the ordinance. He stated that the persons he had been dealing with were not "bad people" but they did not understand they could not ride their skateboards in the streets and on sidewalks.

COUNCILMAN LITTLE - COMMENTS: Councilman Little stated that he would like an update on the problems with mini bikes in the West Marion area.

The Police Chief stated that he had received several ordinances concerning requiring the noise to be kept in a certain decibel range. He stated that to adopt an ordinance in this nature, the department would require extra training and equipment. He stated that he had spoken to several persons who had enacted such ordinances and they had advised that it would be easier to require the persons to ride the mini bikes outside the City Limits.

Mayor Clark stated that he did not think that it would be unreasonable to require that mufflers be placed on the bikes.

The City Manager stated that there could be problems if they passed an ordinance that the bikes could not be ridden in the City. He stated that they could go just outside the limits and ride the bikes which would not solve the problem.

A question was asked about where the bikes could be ridden. The Police Chief stated that they could not be ridden on the highway unless they were licensed and had an approved muffler.

The Police Chief and City Manager were directed to draft an ordinance to present to Council for their approval.

ELECTIONS - 1989 - ARRANGEMENT OF NAMES ON THE BALLOTS: The City Manager stated that in the past, after elections had been held, some candidates had requested that the candidates names be listed in a rotating order rather than alphabetically on the ballots.

Council agreed to leave the names in alphabetical order on the ballots.

COMMUNITY BUILDING - PARKING LOT: The City Manager stated that the Council had talked about a parking lot at the Community Building and that money had been set aside for the project. He stated that he would like to receive the approval of Council to proceed with the project.

Council agreed to allow the City Manager to proceed with the project.

Mayor Clark stated that at one time, a request had been received to make a thru-street through the lot beside the Community Building.

Councilman Tyler stated that he thought that through traffic would create too much noise inside the Community Building.

Councilman Ayers stated that when he was catering something at the building, he pulled back to the kitchen doors and that he thought the parking lot would be of great benefit.

REPORTS:

1. **COUNCILMAN AYERS - COMMENTS:** Councilman Ayers asked if a light had been placed at the Community Building at the basketball courts. He was advised that a light had been installed.

2. **COUNCILMAN CROSS - STATUS OF FENCE AT CEMETERY:** Councilman Cross asked what had been decided concerning the fence along the back of Oak Grove Cemetery. The City Manager stated that the fence was to be removed and replaced with a wooden barricade so that cars would not be able to run down the bank and onto the railroad tracks.

3. **COUNCILMAN TYLER - SUGGESTION:** Councilman Tyler stated that the Street Committee would like to suggest that a dual lane feeding into Highway 70 (on the Five Lane) from Logan street be looked into. He stated that the back-up of traffic on Logan Street was terrible.

Councilman Stronach stated that at there was a problem with the traffic light backing up traffic at the intersection of Logan and Fort Streets.

CHANGE IN UTILITY LINE - CATAWBA RIVER WASTE TREATMENT PLANT:

The City Manager stated that a line change had been made by the Utility Committee on the Catawba River Waste Treatment Plant. He stated that on the area where the line was to run on parallel to a bridge just off of the Five Lane, the line had been moved to the opposite side of the bridge to keep the line off of private property.

The City Manager stated that the line which was to be suspended in the river was

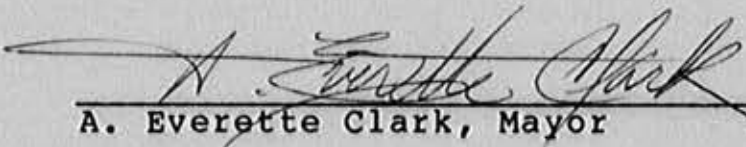
to be deleted and that the lines had been changed to larger sizes so that the flow of the discharge could be handled without the suspended line. He stated that the engineer had provided the Committee with several options and that this option was the one they selected.

The City Manager stated that the engineer would be submitting change work orders for Council's approval concerning the changes in both lines.

EXECUTIVE SESSION - POSSIBLE LEGAL MATTER: Upon a motion by Councilman Stronach seconded by Councilman Tyler, Council voted unanimously to go into Executive Session to discuss a legal matter.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to return to Regular Session.

ADJOURNMENT: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adjourn.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

**STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION**

January 17, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, January 17, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everett Clark; Councilmen Angus Stronach, Robert Ayers, Joe Tyler, and John Cross.

BOARD MEMBER ABSENT: Councilman Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lydia Carrington, News Reporter, The McDowell News; and Bill Gilsdorf, Chief of Police.

GUESTS PRESENT: Mr. Fred Williams, Duke Power Company; Mr. Steve Poteat, McDowell County Health Department; Mr. & Mrs. Morris Hollifield, 1253 Hwy 221 North; Ms. Gladys Hollifield, 1204 Hwy 221 North; Mr. Larry Scott, Hwy 221 North; and Ms. Josephine Pittman, River Breeze Fish House.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the January 3, 1989 meeting.

REQUEST FOR FUNDS - SENIOR GAMES - MR. LEWIS ERSKINE: The City Manager stated that he had received a letter from Mr. Lewis Erskine requesting a donation from the City for the Senior Citizens to go the National Senior Games.

The City Manager stated that he had talked with Mr. Erskine to get more details concerning the games. Mr. Erskine stated that he would be attending a meeting later this week and would be able to provide more information later.

The City Manager asked that this item be tabled until the next meeting when more information was available. Council was in agreement.

PETITION - REQUEST FOR SEWER SERVICE - CATAWBA RIVER WASTE TREATMENT PLANT: The City Manager stated that he had received a petition for persons beyond the area to be served by the Catawba River Waste Treatment Plant to tap onto the system.

The City Manager stated that as of now, the City had a permit to construct a two hundred fifty thousand gallon waste treatment facility but were only constructing a one hundred fifty thousand gallon facility. He stated that he was aware of the problems in the area beyond the area to be served, however, that the City's first obligation was to the persons inside the City Limits. He stated that at this time, the area to be served was not inside the City Limits, but is the next area to be annexed.

Mr. Larry Scott stated that the persons interested in tapping onto the system would like to at this time because they felt that it would be less expensive to tap on while the construction for the plant and the by-pass was going on. He stated that with the problems the area is experiencing, the expansion of the businesses was at a stand-still.

Mayor Clark stated that at this time, the present plant being constructed was designed to serve only the five-lane area. He stated that when the area was annexed, the City was required by law to furnish sewer service to the area. He stated that there was a lot of undeveloped properties along the area considered for annexation and that the City would have to keep this in mind when figuring what the daily capacity of the plant would be.

Mr. Scott stated that he understood the City's position, but that some of the businesses may have to close due to the problems they are experiencing at this time with the septic tanks.

The City Manager stated that the City was currently involved in a study with the County and Town of Old Fort concerning the needs of the county for water and sewer service.

Councilman Stronach stated that the City would help the persons beyond the plant site as soon as it was possible. He stated that the City did have an obligation first to the persons on the Five-Lane and adjoining properties.

Councilman Ayers stated that he understood the positions of the business and property owners present. He stated that he did not see how the problem could be solved at this time since the project had already began.

The City Manager asked how close the problems were in the Hankins Road area?

Mr. Steve Poteat of the Health Department stated that he was not working on that particular area, but that the property and business owners present tonight needed help urgently. He stated that the City was talking about the expense of adding to the project, but the property and business owners had no options that something must be done.

The City Manager stated that the engineer had only general information but could tell them where the problems are. He stated that he did not know where the money for expansion of the project could come from.

Councilman Tyler asked if an adequate water supply would help the persons in any way. Mr. Poteat stated that the people had wells and a good water supply that sewer service was what was needed.

Mr. Poteat stated that the septic tanks in the area were not feasible for businesses. He stated that septic tanks should be used for residential properties only.

Councilman Ayers asked how the property owners felt about being annexed into the City. Mr. Poteat stated that he had no problems with being annexed and he felt that most of the persons in the area would have no problems.

Mayor Clark asked if the citizens would be willing to help finance the project. Mr. Poteat stated that he felt that it would be no problem for some persons but that it would not be feasible for others.

Councilman Stronach suggested that the item be on the agenda for joint retreat later this month and that the citizens be kept informed of what was going on.

Mayor Clark asked what the feeling of the health department were since they allowed the septic tanks to go in the area and now are telling the persons that they are no longer adequate. He asked if they would be willing to help with financing the project since they were partly to blame.

Mr. Poteat stated that the money they could get would come from the County. He stated that when the septic tanks were allowed to go into the area, they were in compliance with the law. He stated that the laws had changed now and the septic tanks were no longer in compliance.

Ms. Josephine Pittman asked if the service was to extend to Wendy's. She was informed that it would and the line would serve the proposed shopping center and the schools. Ms. Pittman asked why the City should consider waste from the shopping center when it was not built yet and they had been in existence for years. She was informed that a large proportion of grant money available for the project was approved because the contractor promised to provide a certain amount of jobs for the area. Ms. Pittman stated that she felt that the persons allowed to tap onto the system be on a first come first serve basis.

Mayor Clark stated that Council had received a letter from Ms. Josephine Pittman stating that if the City would accept waste from her business, she would be

responsible for the expense in the lines, taps, engineering fees and other fees which would be experienced from her request. Mayor Clark stated that he would like to hold her letter until a decision on the other proposals had been made. There were no objections.

RESOLUTION - FIREMEN'S ASSOCIATION - RADIO FREQUENCY: The City Manager stated that McDowell County had taken no action on the proposed Resolution concerning the radio frequency for the Fire Commission. He stated that he would like to table the Resolution until the County took action. There were no objections.

ORDINANCE - MINI BIKES: The City Manager stated that he had not had time to meet with the Police Chief concerning an ordinance, but the Police Chief had submitted an ordinance for consideration.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adopt the following Ordinance:

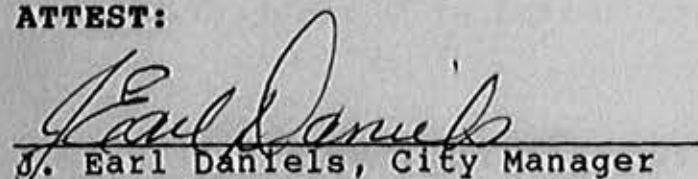
**AN ORDINANCE REGULATING THE OPERATION OF MOTORCYCLES,
"TRAIL" BIKES AND OTHER "OFF THE ROAD" VEHICLES IN MARION.**

1. Use limited to on the road as allowed by State Law, only if legally licensed and inspected.
2. Off the Road use - specifically prohibited in the City of Marion, except
 - a) on property owned, or controlled by the operator, or as permitted in writing by the owner to the operator, and b) only at a distance greater than 500 yards from the nearest dwelling or business.
3. Any vehicle used as permitted by this ordinance must be equipped with a functioning factory installed muffler, or it's equivalent before it may be operated in any fashion within the City.
4. Violation of this ordinance shall be a misdemeanor.

ADOPTED this the 17th day of January , 1989.


A. Everette Clark, Mayor

ATTEST:


J. Earl Danfels, City Manager

0-89-1-17-1

WATER STORAGE TANK - WARRANTY: The City Manager stated that he had talked with Evans, Eller and Associates, Inc. since the last meeting concerning the extended surety bond on the water storage tank. (RE: Minutes of 1/3/89).

The City Manager stated that he had included in the agenda, copies of letters Gary McGill sent to Evans, Eller & Associates concerning items which needed to be corrected. These items were noted at the final inspection on Friday, January 6, 1989.

The items to be corrected are as follows:

1. Several cracks were noted in the final cover coat on the exterior of the new tank.
2. The final coat of paint has numerous thin or light spots, additional painting will be required.
3. The transmitter equipment does not function properly to shut-off the pumps at water treatment plant when the tank reached the high water level.
4. The concrete pipe supports in the valve vault, needs to be constructed in such a way to support the piping.
5. The HASP and U-Bolt on the entrance hatch does not work properly. With the entrance hatch padlocked the hatch can be raised several inches.

GENERAL NOTE:

During the week of July 4, 1989, the Contractor is scheduled to return to the project to make appropriate repairs of two areas leaking previously noted and discussed.

1. One leak was noted at the intersection of the vertical wall and floor slab.
2. A second leak was noted approximately 10 feet below the intersection of the vertical wall and dome, on the left side of the target gauge.

The letter stated that all payments would be held until a satisfactory written response was received.

The City Manager stated that in talking with Mr. Wilson of Evans, Eller and Associates concerning the extended surety, Mr. Wilson had brought up an interesting thought. Mr. Wilson had stated that representatives from the Crom Corporation had been inside the tank several times and were unable to locate the source of the leak. He asked what made them so sure that they would find the leak on July 4, 1989 when they were scheduled to return inside the tank.

It was suggested that the balance of funds due to the contractor not be paid until the surety was furnished to the City or to leave enough out of the funds for the City to purchase the surety themselves.

A short discussion followed. Council agreed to wait until Gary McGill had received response on the correction of problems until a decision was made regarding the surety bond.

LOGAN STREET - TO LANE TO HWY 70: The City Manager stated that he had received a response from Mr. K. J. Putnam of D.O.T. concerning the Street Committee's recommendation to allow two northbound lanes from Logan Street to the intersection of US 70 - US 221- NC 226 (Main Street).

The letter from Mr. Putnam stated that the roadway width narrows a point approximately 300 feet from the intersection making it difficult to accommodate the revision because the lanes would be too narrow to allow safe movements of traffic.

The letter went on to state that D.O.T. felt that the revision was worthwhile and that if the City could acquire the right-of-way necessary for widening the existing roadway approximately 4 to 6 feet that D.O.T. would attempt to fund and construct the project.

The City Manager was directed to contact D.O.T. to find out what the right-of-way was at this time and what was needed and then to contact the property owners if necessary so that property to construct the road could be purchased or a right-of-way acquired.

Councilman Stronach stated that he would like to commend the work of the Street Committee for their recommendation on the problem with traffic in this area.

BILLBOARD MORATORIUM - REQUEST FOR EXTENSION: Mayor Clark stated that the City had received a letter from Councilman Steve Little requesting a ninety day extension on the extension of the Billboard Moratorium.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to extend the extension of the Billboard Moratorium for a period of ninety days.

REQUEST TO USE CITY LANDFILL - TOWN OF OLD FORT: The City Manager stated that he had received a letter from Mayor Bill Early of the Town of Old Fort requesting permission for the town to dispose of their sludge in the City of Marion landfill.

The City Manager stated that the County had also been asked to use their landfill and the request was denied.

The City Manager read a memorandum from Mr. Bill Hunnicutt, Chief Operator, Waste Treatment Plant which stated that he did not recommend that the City dispose of anyone else's sludge. He stated that we had a permit to allow us to dispose of our own materials and if another location's sludge was disposed of in our landfill, the City would be responsible in the event something was wrong.

Councilman Ayers stated that the Utility Committee had discussed the issue and that they would recommend that the request be denied.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to deny the request from the Town of Old Fort to dispose of their sludge in the City of Marion's landfill.

PLANNING/ZONING BOARD - APPOINT THREE MEMBERS: The City Manager stated that he had

received a memorandum from Mrs. Lovina Smith concerning expiration of terms of three members on the Planning/Zoning Board.

The memorandum stated that the terms of Mr. Robin Hood; Mr. Wilton Carter; and Mrs. Jane Brown. Each of the persons were eligible for re-appointment, however, Mrs. Brown had requested that she not be re-appointed.

Mrs. Smith had also submitted a list of possible names to be appointed to the board.

Councilman Cross stated that Mr. Robin Hood had talked with him concerning problems with having a quorum present for their meetings. He asked if it would be a problem to appoint an additional alternate member so they would not have as many problems.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to re-appoint Mr. Robin Hood to a three year term to the Planning/Zoning Board and to appoint Mr. Wilton Carter and Mr. Phillip Tate as alternate members for a three year terms each, said terms to expire January 31, 1992. Consideration is to be given to an additional alternate member.

REPORTS:

1. MEETING WITH ARCHITECTS: The City Manager stated that the Building Committee had met earlier today with a representative from the Wooten Company, an architectural firm and Mr. John Barnes formerly from the Local Government Commission concerning the proposed improvements to the City Hall Facilities. The City Manager stated that Mr. Barnes was working with a consulting firm and he offered help to Cities on financing large projects of this nature.

The City Manager stated that the City would have to do something by 1991 when the new fire truck was purchased because there would be no place to store the truck.

Mayor Clark stated that he felt that there should be firm plans in place by the next fiscal year.

2. MR. FORTENBERRY - WATER LINE EXTENSION REQUEST: The City Manager stated that representatives of the City would be looking at the water line extension request submitted by Mr. Fortenberry. He stated that the request was to put in a small line to serve three homes on private property. The City Manager stated that it may be in the best interest to see if the County would be willing to help put in a larger line which would be adequate for future expansions.

3. DISPOSAL OF CITY COUNCIL CASSETTE RECORDINGS: The City Manager stated that the City was currently keeping the cassette recordings of each City Council meeting. He stated that he was running out of room to store the tapes and would like the permission of Council to tape over some of the older meetings.

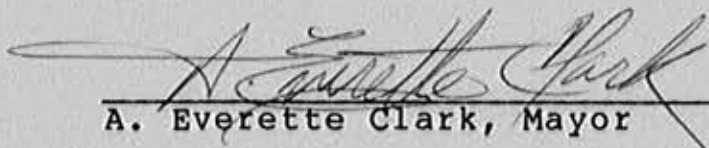
Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to allow the City Manager to tape over the cassette tapes of the City Council meetings, if tapes for a twenty four month period are kept on file.

4. GRADING WORK AT COMMUNITY BUILDING: The City Manager stated that the grading work for the parking lot at the front of the Community Building was to begin in the near future. He stated that it had been proposed to construct a covered picnic area and small parking lot at the back of the building in the next year. He stated that he would like to ask the permission of Council to do the grading work for this project at the same time as the grading for the parking lot was to be done.

A short discussion followed. It was the general consensus of those members of Council present to wait until a later date to begin the grading.

5. COMMENTS - COUNCILMAN AYERS: Councilman Ayers stated that he had noticed that the dome on the old First Union Building on Main Street was in need of paint. He asked if the owners could be contacted to work on the dome. Mr. Ayers stated that Mr. Clarence Burnette had asked that a load of gravel be put in the Church parking lot where the City had put gravel in before.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 7, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, February 7, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, John Cross, Angus Stronach, Joe Tyler and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Sgt. Arthur O'Dear, Marion Police Department; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS: Mr. Lewis Erskine, representing Senior Games of McDowell County; Ms. Jewel Dover, Marion, North Carolina; Ms. Edna Johnson, Marion, North Carolina, and Ms. Josephine Pittman, Riverbreeze Fish House.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the January 17, 1989 meeting.

MS. JEWEL DOVER - REQUEST - BINGO AT THE COMMUNITY BUILDING:

Ms. Jewel Dover and Ms. Edna Johnson appeared before Council concerning a request to use the Marion Community Building each Friday night for BINGO until they can find a new building. The request stated that the proceeds from the games would go to the Lion's Club.

The City Manager asked if the ladies were familiar with the state laws which regulated BINGO games. The ladies stated that they were.

Councilman Little stated that Woodmen of the World used to hold weekly BINGO games and asked if the games were still held. He was informed that the Woodmen held their games on Saturday of each week and that the Old Fort Kiwanis Club held their games on Thursday nights.

Councilman Stronach asked if the game would be for a profit of any type. The ladies stated that the money would go back into a "pot" for the next week's game and that money from selling food would go back into a fund for food. They stated that the State required a certain percentage of the funds go to a charity, the rest of the funds would go back into the game.

Mayor Clark stated that when the Woodmen of the World used the building that all of the money went to local charities.

Councilman Cross asked if the ladies would be paid. They stated that they would not.

Councilman Little asked if the proceeds would go to the local Lion's Club. The ladies stated that it would.

Mayor Clark asked what type of foods would be served. The ladies stated that they would have coffee, tea, soft drinks, and sandwiches.

Councilman Little asked if the ladies had ever held the games before, they stated that they had not, but had been to quite a few games and were familiar with how they operated.

The City Manager stated that the reason he wanted Council to consider the request was that the ladies wanted to use the building on a regular basis and that each person using the building on a regular basis had to have the approval of Council.

Councilman Cross stated that he felt that the Council should study the request in relation to the rules and regulations of the Community Building.

Mayor Clark stated that he would like the Community Building Committee to look

into the matter. Council was in agreement.

REQUEST FOR FUNDS - SENIOR GAMES - MR. LEWIS ERSKINE: Mr. Lewis Erskine appeared before Council concerning a request for funds for the local Senior Citizens to attend the National Senior Games in St. Louis Missouri.

Mr. Erskine stated that the Senior Citizens were currently trying to raise money for their trip to the National Games. Mr. Erskine stated that they would appreciate any help that the City might give to them.

Mayor Clark asked if Mr. Erskine had asked the County about a donation. Mr. Erskine stated that he had called to be placed on their agenda.

It was the general consensus of the Council to delay any action until the County makes a donation to the Senior Games.

PETITION - REQUEST FOR SEWER SERVICE - CATAWBA RIVER WASTE TREATMENT PLANT: Ms. Josephine Pittman appeared before Council concerning a request to tap her restaurant, the Riverbreeze Fish House onto the Five Lane Sewer Plant.

Ms. Pittman stated that she wanted to add a Chinese Restaurant to her restaurant already in operation. She stated that the Health Department told her that if she was unable to tap onto the Five Lane Waste Treatment Facility that she would have to build her own waste treatment plant to care for the waste from her restaurant.

The Council asked for the input of City Engineer, Gary McGill. Mr. McGill stated that he thought that at the most, the flow from her restaurant would be 3,000 gallons per day. He stated that he felt that the City needed to look at the entire picture, that the whole area in this vicinity needed sewer service.

Mayor Clark stated that he agreed with Mr. McGill on looking at the entire area. He stated that the City needed to develop a plan for the area now. Mayor Clark stated that the plan would eliminate potential problems if only one person was allowed to tap onto the system due to flow limitations.

Councilman Little stated that he felt that the County needed to be brought into the plan and needed to help with the cost of expansion of the project. He stated that the problem was a County problem rather than a City problem.

Ms. Pittman stated that although persons signed the petition presented to Council, the persons who signed the petition were aware that she was willing to pay for the tap if necessary.

Councilman Little stated that they needed to deal with the entire area possibly to the area known as Deepwoods Estates on Hankins Road. He stated that there would be problems there in the near future.

Councilman Little asked Ms. Pittman if there was a problem with the HoneyWagon coming in each day to pump the waste water. She stated that the Health Department would not allow it to be pumped.

Mayor Clark stated that he would like the Utility Committee to meet with Gary McGill to try and work out a possible solution for the entire area.

Ms. Pittman asked what kind of time frame would the City need since she was on a six month deadline with the Health Department. Mr. McGill stated that they would be able to have a plan by her deadline and felt that if the City had a plan to begin work on that the Health Department would be satisfied.

WATER STORAGE TANK - WARRANTY - PAYMENT SCHEDULE: Mr. Gary McGill stated that he had received a letter from the contractor on the Water Storage Tank Project requesting that the City accept the work as complete with conditions and release the money that they were holding until the work was complete.

Mr. McGill stated that he did not feel that a job could be complete with conditions. He stated that he had sent a letter to the contractor pointing out four "Punch Line Items" noticed at the final inspection which needed to be corrected. He stated that they consisted of: 1. A leak at the bottom of the tank; 2. A leak on the side of the tank; 3. Cracks in the cover coat of the tank and; 4. the exterior paint. He stated that he had given the contractor thirty days to respond to the letter. Mr. McGill stated that he had received a response, however, he did not feel that it was acceptable.

Mr. McGill stated that he had requested that the City remit Pay Request #8 to the Contractor when he had received an acceptable response to his letter outlining the Punch Line Items. He stated that in paying this amount, the City would still be retaining a portion which should not be released until the project had been accepted.

Mr. McGill stated that in July when the contractor was to come back to inspect the tank that the City would have two options: 1. Accept the tank as it is, or; 2.

To default and go back on the bonding company for replacement. Mr. McGill stated that previously the City had requested that after the contractor's warranty expired to require that the bond from the additional four year warranty also have a surety bond. (The four year warranty would be covered by the firm who actually constructed the tank, Crom Corporation, and would not have a surety bond.) Mr. McGill stated that he did not see a need for the surety bond, however, if the City did require it, he felt that the expense should be taken care of by the City rather than the contractor.

Councilman Little stated that he was not concerned with the company as it is now. He stated that in the unlikely event that the company went bankrupt or had to become insolvent, the City would be at a loss. Council was in agreement that in a case such as this, the surety would be of benefit.

Council decided to wait until a later date to make a decision, however, if the surety was required, to have it in place before the present warranty expired.

MT. MORRIAH - PENNSYLVANIA AVE. - PROPERTY EXCHANGE: The City Manager stated that the City Attorney had located a statute which would allow the City to exchange a piece of property of equal value with Mt. Morriah Baptist Church. (Ref. Minutes of

The City Manager stated that he had written a letter to the Church to see if they would be interested in exchanging property. The Church had responded and asked that if the City Council was in agreement to proceed with the necessary procedures.

The City Manager stated that the process to exchange the property included a Public Hearing, actual survey of the property, and legal advertisements in the newspaper. He stated that the letter he had written informed the Church that they would have some expense in the procedure.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to proceed with the property exchange.

No decision was made as to who would bear the cost of the process or how it may be divided.

RESOLUTION - FIREMEN'S ASSOCIATION - RADIO FREQUENCY: The City Manager stated that he had not received a resolution from the Firemen and asked that this matter be tabled until the resolution is received. Council was in agreement.

PULLIAM STREET - REQUEST FOR STREET LIGHT: Councilman Ayers stated that he had received a request from Mrs. Radar who lived on Pulliam Street to install a street light in front of her house.

The City Manager stated that another citizen across the street from Mrs. Radar had requested that a street light be installed. He stated that it had been determined by the Street Committee that an additional light was not needed and that the lights on the street had been installed according to City policy. He suggested that after the meeting the Council ride over to the street to determine if an additional light was needed.

Council determined after observing the street that an additional light was not needed in the area and that the lights had been installed according to City Policy. Council also determined that a light in front of Mrs. Radar's home would not be of benefit to her due to trees in her front yard.

POLICE DEPARTMENT - OPENING LOCKED VEHICLES: The City Manager stated that a locksmith who lived in another area but had a local shop had talked with the Mayor and himself last week concerning opening locked vehicles. The City Manager stated that at the present, it was City Policy for the Police Department to open the locked vehicles at no charge if the person signed a waiver releasing the City in the event of any damage. He stated that the Police Department also had a similar policy concerning stranded motorists and "jump starting stalled vehicles".

The City Manager stated that the locksmith wanted to request that the Police Department allow them to unlock the vehicles for a \$15 - \$20 charge per vehicle. The City Manager stated that he had asked the locksmith if he would be available on weekends and holidays. He stated that he specifically asked the locksmith if he would be available on Christmas Eve at 2:00 A.M. He stated that the locksmith did not give a response.

Councilman Ayers stated that in his experience with the locksmith, they would not come out at 10:00 P.M. when a tenant had locked himself out of his apartment.

The City Manager also presented a memorandum from the Police Chief which stated the present policy and included the waiver forms.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted

unanimously to allow the Police Department to open locked vehicles upon request if the owner signed a waiver releasing the City in the event of damages. In the event that the person does not sign a waiver, the Police Department is not to unlock the vehicle under any circumstance. In the event the lock is one that the Police Department has had problems with, they are to refer the person to a locksmith.

NO PARKING ZONE - CALIFORNIA AVENUE - ORDINANCE: The City Manager stated that he and the Police Chief had prepared an ordinance concerning a no parking zone on a portion of California Avenue. The portion of street was in an area where a hill obstructed the view of persons coming out of their driveway. He stated that persons parked cars along the street adding in the area making it impossible to see.

The City Manager was asked if the citizens would have adequate parking or if the no parking zone would prohibit persons with no driveway to park in front of their house. He stated that there was one house without a driveway. A short discussion followed.

The matter was referred to the Street Committee for their recommendations.

RUTHERFORD ROAD - SPEED LIMIT - ORDINANCE: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following Ordinance:

**ORDINANCE ESTABLISHING A 35 MILE PER
HOUR SPEED LIMIT VARIOUS CITY STREETS**

BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:

SECTION 1. When signs are erected giving notice thereof, it shall be unlawful to operate a vehicle in excess of thirty-five (35) miles per hour on the following streets or portions of streets:

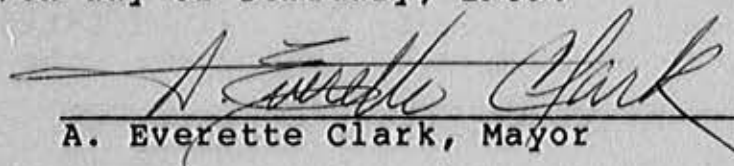
- a. Rutherford Road (U.S. 221 - N.C. 226) between Baldwin Avenue (SR 1703) and Young's Fork of Muddy Creek (City Limits).

SECTION 2. Any person who shall violate or fail to comply with this Ordinance shall be guilty of an offense and upon conviction shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.


SECTION 3. All Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 7th day of February, 1989.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STREET\SIDEWALK IMPROVEMENTS - PROPOSED POLICY: The City Manager presented a proposed street\sidewalk policy to Council. He stated that the policy quoted directly from the City Code, however, the City did not have a written policy manual.

Council agreed to study the policy before taking any action.

DOT - STREET SYSTEM CHANGES: The City Manager stated that DOT had proposed that the City take over maintenance of certain streets in the Cross Mill area. He stated that he had met with the Public Works Director and Street Superintendent concerning the matter and they would like to make the following recommendations:

1. Carson Street (SR 1205) - between Court Street and Webb Street: Not accepted because curb and gutter work was needed.
2. Cross Street (SR 1204) - between Carson Street and Tate Street: Accept.
3. Gladden Street (SR 1202) - between Cross Street and Webb Street: Do not accept because it is not wide enough to qualify for Powell Bill Funds.

4. Webb Street (SR 1202) - between Gladden Street and Carson Street: Do not accept because it is not wide enough to qualify for Powell Bill Funds.
5. Roane Street (SR 1201) - between Webb Street and Hoyle Street: Accept.
6. Hoyle Street (SR 1201) - between Roane Street and Tate Street: Accept.
7. SR 1294 - between Henderson and end of State maintenance: Accept.

The City Manager stated that DOT had also requested that they be allowed to include a portion of Logan Street on the state maintained highways. The portion is presently City maintained. The City Manager stated that he did not recommend that this street be turned over to the state until additional curb work had been done.

The City Manager was directed to send a letter to DOT accepting the streets as outlined above for City maintenance; to accept the streets which did not qualify for Powell Bill funds if they would be paved out to meet the requirements; and to accept Carson Street if curb and gutter work was done. He was also given permission to work out an agreement concerning Logan Street.

COMMERCIAL\INDUSTRIAL TRASH COLLECTION - DISCUSSION: The City Manager stated that he would like to discuss the problem with commercial and industrial trash collection. He stated that the item was discussed at the annual retreat, however, he would like to follow up on what was said at the retreat.

The City Manager stated that based on the tax revenue and garbage collection, the container pick-up is at its limit. He stated that at the time when the five lane is annexed, the City will have to provide collection to them for a one year period. He stated that he would like to have a policy in effect prior to the annexation.

The City Manager stated that the possibilities were as follows:

1. To completely get out of the business - pick up customers with only 2 -35 gallon containers twice per week and to let the commercial and industrial businesses deal with the contractors directly.
2. The City could work with a private hauler and charge based on what it would cost the City.

Mayor Clark stated that he would like to turn the matter over to the Utility Committee for a formal recommendation to Council.

Councilman Little stated that he would like to have a report by the next meeting of Council so that the City will be able to give the business owners some type of notice.

ENTRANCE TO HOSPITAL - RESOLUTION: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following Resolution:

**RESOLUTION R-89-02-07-01
FOR THE CONSIDERATION OF TRAFFIC CONTROL
ON SUGAR HILL ROAD AT ENTRANCE TO HOSPITAL**

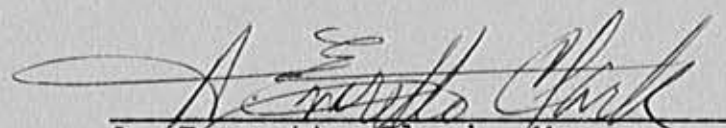
WHEREAS, Sugar Hill Road is a very heavily traveled road, being in the principle access with I-40 going south from Marion and being utilized by heavy trucks and numerous other vehicles in the general flow of traffic; and

WHEREAS, traffic is especially heavy in the afternoons when the business day ends and shift changes for industries; and

WHEREAS, Rankin Drive is the main egress from the hospital and, as it intersects with Sugar Hill Road, is uphill; and

NOW THEREFORE, BE IT RESOLVED that the Marion City Council respectfully requests that the Department of Transportation install appropriate Traffic Control Lights (not caution lights) at the entrance to The McDowell Hospital to control the traffic problems involving those motorists going to and from the hospital.

ADOPTED this the 7th day of February, 1989.


A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

APPOINT ONE MEMBER - AGENCY NETWORKING: The City Manager stated that he had received a request from the Chamber of Commerce to appoint a member of Council to an Agency Networking Committee. The persons on the Networking Committee would be representatives from the respective boards and committees in the County and would work together through these meetings to keep each other informed of what actions their boards would be taking.

Mayor Clark stated that he would attend the meetings and that the City Manager would attend in his absence.

REQUEST - McDOWELL INSURANCE: The City Manager presented a letter from Mr. Marshall Dark of McDowell Insurance requesting that the City pay a commission to the agency that the insurance carrier refused. The commission was to be paid by the Hunt Agency which carries the City's Public Official and Law Enforcement Liability coverage.

A short discussion followed. Council agreed that the matter was between McDowell Insurance and the Hunt Agency and that the City should not become involved in a disagreement between two businesses and the City should not pay the commission.

LOGAN STREET - TWO LANES TO HWY 70: The City Manager stated that representatives from DOT had been conducting a survey of the area on Logan Street proposed to be widened allowing two lanes to feed into Hwy 70.

The City Manager stated that he was under the impression that if the City would purchase the right-of-way, DOT would complete the project. He stated that a drawing should be ready by the next week and he would contact the owners about a right-of-way at that time.

REPORTS:

1. CONTEL TELEPHONE COMPANY - UNDERGROUND LINES: The City Manager stated that representatives from ConTEL had talked with him last week concerning putting some of the telephone lines in the downtown area underground.

2. NORTH CAROLINA CITY/COUNTY MANAGERS CONFERENCE: The City Manager stated that he would be attending the annual City/County Managers Conference in Chapel Hill on February 8, 9, and 10.

3. COUNCILMAN LITTLE - REQUEST - STREET COMMITTEE: Councilman Little stated that he would like to have the Street Committee look into making a handicapped parking place where the First Baptist Church parks along Main Street.

3. GRIEVANCE COMMITTEE - MEETING REPORT: The City Manager stated that the grievance committee would be meeting tomorrow at 9:00 A.M. and would need a uniform police officer to be at the meeting.

EXECUTIVE SESSION - LEGAL MATTER: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to go into Executive Session to discuss a legal matter.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to return to Regular Session.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adjourn.

A. Everett Clark
A. Everett Clark, Mayor

ATTEST:

J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 21, 1989

The City Council for the City of Marion met in Regular Session on Tuesday, February 21, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen Robert Ayers, John Cross, Joe Tyler, and Steve Little.

BOARD MEMBER ABSENT: Councilman Angus Stronach.

OTHERS PRESENT: J. Earl Daniels, City Manager; Penn Dameron, City Attorney; LuAnn Ellis, Secretary; Robert Parker, Personnel Director; Bill Gilsdorf, Chief of Police; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Jack Walker, Marion, North Carolina; Mr. Red Walker, Marion, North Carolina; Joe Watson, Marion, North Carolina; Woody Killough, Killough's Music & Loan; and Mr. Hugh Franklin, Marion, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the February 7, 1989 meeting.

RIDLEY STREET - REQUEST FOR IMPROVEMENTS: The City Manager presented the City Council with copies of the Street Improvement guidelines from the City of Marion Code.

The City Manager presented copies of a petition and drawing of the area from several property owners on Ridley Street requesting that improvements to the street be made.

The improvements requested are as follows:

1. Open and grade street
2. Install gravel on street
3. Install drainage pipe so the street can be opened

The petition was signed by Mr. John Walker, Mr. Jack Walker, Ms. Maude Scott and Ms. Doris Hill. Several property owners on the street had not signed the petition and one large area was unidentified. Mr. Walker stated that the property belonged to them. The City Manager stated that the City Charter provides authority to do street improvements without a petition and assess property owners for a percentage of the cost.

The City Manager stated that petition was that the City Code Section 4-1005 establishes procedures to be followed regarding street improvements but does not state how costs are to be shared.

A long discussion followed.

The City Manager recommended that the last sentence in Section 4-1005, (c) of the City Code be deleted and a new sentence inserted to read as follows:

"The City will pay twenty five percent (25%) of the cost of improvements and the property owners, when property abuts the street improvements shall be assessed for seventy-five percent (75%) of the cost."

Upon a motion by Councilman Tyler, seconded by Councilman Cross, those members of Council present voted unanimously to accept the recommendations of the City Manager.

The City Manager was directed to get estimates of the cost to make the improvements requested in the petition.

PUBLIC HEARING - ZONING ORDINANCE - PROPOSED AMENDMENT: The City Manager opened the Public Hearing for the purpose of amending the City of Marion Zoning Ordinance.

The following cases were presented:

1. R-2 - GENERAL RESIDENTIAL DISTRICT - PERMITTED USES: The Planning Board made the following recommendation: To amend Article VII. Use and Requirements By District, Section 802. R-2 General Residential District, 802.2 Permitted Uses of the Marion Zoning Ordinance to include the following:

7. Armory Facility

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of

Council present voted unanimously to amend Article VII. Use and Requirements By District, Section 802. R-2 General Residential District, 802.2 Permitted Uses of the Marion Zoning Ordinance to include the following:

7. Armory Facility

2. AMENDMENT OF ARTICLE IV. DEFINITIONS OF TERMS USED IN THE ORDINANCE, SECTION 400. DEFINITIONS: The Planning Board made the following recommendation: To amend Article IV. Definitions Of The Terms Used In The Ordinance, Section 400. Definitions of the Marion Zoning Ordinance to include the following:

Armory. A place where arms and military equipment may be stored and military personnel may be trained.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to amend Article IV. Definitions of the Terms Used in the Ordinance, Section 400. Definitions of the Marion Zoning Ordinance to include the following:

Armory. A place where arms and federal and/or state military equipment may be stored and military personnel may be trained.

3. REZONING REQUEST - 431 SOUTH MAIN STREET: The Planning Board made the following recommendation: to rezone the property located at 431 South Main Street, owned by Leon and Carloyn Clark, from C-2 General Business to R-2 General Residential.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to rezone property located at 431 South Main Street, owned by Leon and Carolyn Clark, from C-2 General Business to R-2 General Residential.

There being no further business, the Public Hearing was closed.

COMMUNITY BUILDING REGULATIONS - BINGO - MS. JEWEL DOVER: The City Manager stated that at the last meeting, (Ref. Minutes of Feb 2, 1989), Ms. Jewel Dover had appeared before Council and requested that she be allowed to use the Marion Community Building every Friday night for BINGO until she could find another building. The proceeds from the games would go to the Lion's Club.

The City Manager stated that he had obtained the following information concerning the Community Building: 1. That Friday and Wednesday nights were the only nights not used regularly for a Civic Club meeting; 2. That ten of the remaining Friday nights in the year had already been scheduled.

The City Manager stated that he had met with the Community Building Committee and they would like to make the following recommendations for Council:

1. That the Community Building shall not be scheduled for use on a regular basis on Friday nights.
2. That the Community Building shall not be rented by groups on a regular basis for the purpose of having bingo games. No person, firm, or corporation will be allowed to use the building for the purpose of offering bingo games to the general public..

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to add the following rules to the Rules and Regulations of the Marion Community Building.

1. That the Community Building shall not be scheduled for use on a regular basis on Friday night.
2. That the Community Building shall not be rented for the purpose of having a BINGO game. This would include games for charity purposes.

MT. MORRIAH BAPTIST CHURCH - PROPERTY EXCHANGE - COST: The City Manager stated that at the last meeting he had been asked to obtain figures for the cost of exchanging property located adjacent to the Church.

He stated that estimates on the cost were as follows: 1. Survey Fees - \$200.00; 2. Advertising Fees - \$200.00; and 3. Legal Fees - \$150.00. He stated that in the past, the City had asked the person petitioning to bear the cost. He stated that he would like to know if Council wished for the Church to bear the expenses.

Mayor Clark stated that he felt that the exchange would be for the direct benefit of the Church and that they should bear the expense.

Councilman Little stated that he felt that it was a reasonable policy for the petitioners to bear expenses.

The City Manager was directed to notify Mt. Morriah Baptist Church of the cost of the procedure and to make them aware that they would be responsible for the cost.

NO PARKING ZONE - CALIFORNIA AVENUE - ORDINANCE: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Ordinance:

TRAFFIC AND PARKING ORDINANCE

BE IT ORDAINED by the City Council of the City of Marion, North Carolina, as follows:


Section 1. When signs are erected or curbs are painted yellow giving notice thereof, no person shall park a vehicle on any of the streets or portions of streets described below:

- a. California Avenue, South side, between Sugar Hill Road and the City Limits.
- b. California Avenue, North side, within ten (10') feet of the edge of the paved road between Sugar Hill Road and the City Limits.


Section 2. Any person who shall violate or fail to comply with this Ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 21st day of February, 1989.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

CITY HALL FACILITIES - DISCUSSION: The City Manager stated that the Building Committee had met and discussed the two proposals received for the proposed City Hall Facilities.

The City Manager stated that the Committee recommends the City contract with the Wooten Company to do a Space Needs Study/Site Analysis for \$3,500.00 with the understanding that they were to do the study only.

Councilman Little stated that he felt that the needs for the Police Department and Fire Department were critical and with the annexations planned for this year, the needs would only become worse.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to contract with the Wooten Company to do a Space Needs Study/Site Analysis for the price of \$3,500.00.

15 MINUTE PARKING ZONES - MAIN STREET: The City Manager presented a memorandum from Police Chief William Gilsdorf concerning a request for 15 Minute Parking Zones on Main Street.

The memorandum stated that Mr. Woody Killough of Killough's Music and Loan had requested that two parking spaces on the northmost section of Main Street next to his business be designated as 15 Minute Parking Spaces. He stated that the request had been based on the nature of his business, a pawn shop and the Fast Print and Copy next door to his shop.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Ordinance:

Parking Ordinance

South Main Street

15 Minute Parking Zones

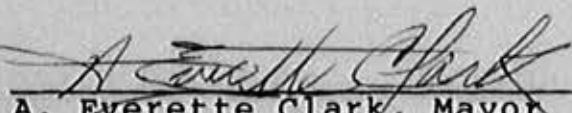
BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:


Section 1. When signs are erected giving notice thereof, no person shall park a vehicle for longer than Fifteen Minutes upon any of the streets or portions of streets described below:

A. Main Street, South - on the east side, beginning at the intersection of South Main Street and East Henderson Street for two parking spaces in a southerly direction.

Section 2. Any person who shall violate or fail to comply with this Ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Adopted this the 21st day of February, 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

PETITION FOR ANNEXATION - AREA ON 5 - LANE: The City Manager presented a petition for annexation signed by the following property owners: Larry Robinson, Trustee for Ruby Pauline Simpson; Hazel Grace McNeil; Barbara R. McNeil; Curtis D. Hawkins, Co-Administrator, Estate of C.D. Hawkins; and Virginia G. Hawkins, Co-Administrator, Estate of C.D. Hawkins.

The City Manager stated that the area was to be included in the annexation to be effective on June 30, 1989, however, the petitioners want the property annexed at an earlier date. He stated that the area was contiguous to the Marion City Square Shopping Center behind the Roses Building.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE THE PETITION FOR ANNEXATION: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
FROM LARRY ROBINSON, TRUSTEE FOR RUBY PAULINE SIMPSON,
HAZEL GRACE McNEILL, BARBARA R. McNEIL;
CURTIS D. HAWKINS AND VIRGINIA G. HAWKINS, ADMINISTRATORS
FOR THE ESTATE OF C. D. HAWKINS**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on February 21, 1989 by the City Council, and

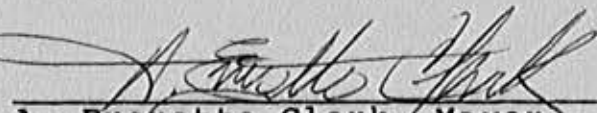
WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceeding may take place; and


WHEREAS, the City Council of the City of Marion deems it advisable to proceed in response to this request for annexation:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion:

That the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of his investigation.

ADOPTED this the 21st day of February, 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

CERTIFICATE OF SUFFICIENCY - AREA ON 5 - LANE: The City Manager presented the following Certificate of Sufficiency to Council:

CERTIFICATE OF SUFFICIENCY

To the City Council of the City of Marion, North Carolina:

I, J. Earl Daniels, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31, as amended.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion, North Carolina, this the 21st day of February, 1989.


J. Earl Daniels, City Manager/Clerk

RESOLUTION FIXING THE DATE OF PUBLIC HEARING - AREA ON 5 LANE: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Resolution:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31, AS AMENDED

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the City Clerk as to the sufficiency of said petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion, North Carolina:

Section 1. That a public hearing on the question of annexation of the area described herein will be held in the City Council Chamber at 7:00 P.M. on the 7th day of Marion, 1989.

Section 2. The area proposed for annexation is described as follows:

BEGINNING on an iron pin set at the north margin of the intersection of New Robinson Road (S.R. 1505) with the east back of the curb for U.S. 70-221, said iron pin being located N 52° 21'46" W 817.42' from NCGS Monument "Machine" (said monument having coordinates y = 719,095.797 and x = 1,104,616.884), and runs thence from said **BEGINNING** point and with the back of the curb for U. S. 70-221, the following seven (7) bearings and distances:

N 53° 04'33" W 163.72' to an iron pin set; N 53° 04'33" W 35.15' to an iron pin set; N 53° 04'33" W 307.48' to an iron pin set; N 53° 04'33" W 84.11' to a point; N 52° 44'31" W 87.71' to a point; N 51° 04'52" W 174.50' to a point; N 49° 25'47" W 106.94' to an iron pin set;

Thence leaving the back of the curb for U.S. 70-221 and running with the line of Hollifield, the following four (4) bearings and distances:

N 42° 17'06" E 52.65' to an iron pin set; N 49° 38'00" W 150.00' to an iron pin set; N 42° 17'06" E 100.00' to an iron pin set; N 49° 38'00" W 95.36' to an iron pin set on the west edge of a 12 foot drive, said iron pin being located S 49° 38'00" E 4.64' from an existing iron pin;

Thence with the west edge of said 12 foot drive, the following five (5) bearings and distances:

N 42° 17'06" E 74.50' to an iron pin set; N 54° 18'25" E 140.00' to an iron pin set; N 74° 44'39" E 136.00' to an iron pin set; N 59° 21'03" E 149.29' to an iron pin set; N 52° 27'09" E 100.00' to an iron pin set;

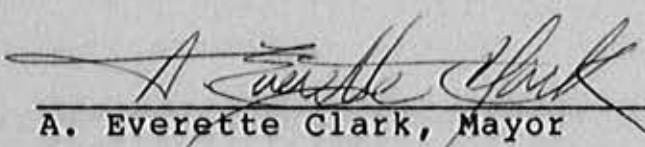
Thence leaving the west edge of said 12 foot drive, N 37° 00'04" E (passing an existing iron pin at 230.00') a total distance of 269.10' to an iron pin set, said iron pin set being located S 53° 37'19" E 628.91' from a 10' Blackjack Oak, the southwest corner of the Nichols property, thence with the Nichols line, S 53° 37'19" E 514.91' to an existing iron pin, thence S 54° 40'19" W 215.09' to an existing iron pin thence S 39° 21'53" E 92.10' to an existing iron pin, thence S 31° 31'30" E 87.91' to an existing iron pin, thence S 19° 48'12" E 199.51' to an existing iron pin, thence S 10° 07'08" E 199.93' to an existing iron pin, thence S 23° 31'19" W 125.15' to an existing

iron pin, City Limits corner, thence with said City Limits lines to the beginning as follows:

s 53°48'42" W 81.00' to an iron pin set; thence continuing S 53°48'42" W 63.3' to an existing iron pin, thence S 25°42'14" E 119.13' to an existing iron pin, thence S 49°21'05" W 141.34' to an iron pin set, thence S 62°45'11" W 51.70' to the BEGINNING, containing 20.20 acres by DMD.

Section 3. Notice of said public hearing shall be published in the McDowell News, a newspaper having general circulation in the City of Marion, at least ten (10) days prior to the date of said public hearing.

ADOPTED this the 21st day of February, 1989.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

SEVERE WEATHER WEEK RESOLUTION: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Resolution:

SEVERE WEATHER AWARENESS WEEK

February 19-25, 1989

RESOLUTION

WHEREAS, emergency preparedness is a function of government dependent upon leadership of the executive officers and efforts of many dedicated volunteers and career civil servants; and

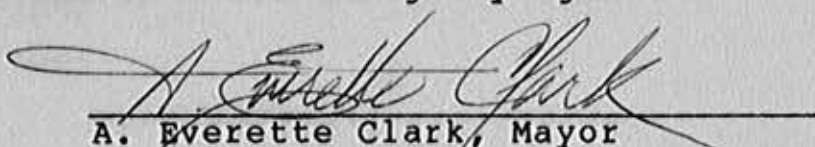
WHEREAS, severe weather claims the lives of North Carolinians every year. The destruction has totalled hundreds of millions of dollars. Often, major weather events such as tornadoes make the headlines, but routine events such as severe thunderstorms occur more frequently and can also cause widespread damage.

WHEREAS, we must continue to be aware and prepared for whatever the weather may bring and be ready to take action to save lives, minimize injuries and protect property, and

WHEREAS, the Marion City Council being concerned for the safety of its citizens encourages the public to participate in "SEVERE WEATHER AWARENESS WEEK", February 19-25, with a statewide tornado drill to be held Wednesday, February 22, 1989.

WHEREAS, by participating, the citizens of the City of Marion can reduce the loss of life and property.

FURTHER, we, the Marion City Council encourage all agencies of our government to cooperate wholehearted with all emergency agencies in this vital effort.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

ISOTHERMAL PLANNING & DEVELOPMENT COMMISSION - APPOINT REPRESENTATION - THREE YEAR TERM: The City Manager stated that his term as a member of the Isothermal Planning and Development Commission had expired and that an appointment needed to be made.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to re-appoint City Manager Earl Daniels to a three year term to the Isothermal Planning and Development Commission.

CENTRAL DISPATCHING - DISCUSSION: The City Manager stated that he had been to a Central Dispatching meeting and that the committee had asked for the input of Council.

The City Manager stated that the Committee would like to go ahead and put the Central Dispatching in place immediately and then when feasible, to add E911.

The City Manager stated that all of the emergency agencies except for the Marion Police Department would be on the network. He stated that the reason for the Police Department being separate was for a back-up system and to allow the Police Department to remain open twenty-four hours a day. He stated that the dispatchers were used as clerks as well as dispatching.

Councilman Little stated that he felt that if the Police Department was kept separate that it would be defeating the purpose of Centralized Dispatching.

Chief Gilsdorf stated that the lines to all of the departments would remain open and that the E911 would be used for emergency situations only. He stated that the system would save time in that when a call came in, the location was known immediately. He stated that the Police Department would have the same information available as the main dispatching location.

Mayor Clark stated that he felt that the Police Department should be kept open twenty-four hours a day and that there should be someone here in the building if a person needed help.

The City Manager stated that he would like to bring up another point. He stated that at the present time, the dispatchers at the County were employees of the sheriff. He stated that the County was looking at the possibility of hiring two additional persons to assist if the program went into operation. He stated that these persons would be under the direction of the sheriff as well. He stated that the County could not set policies for the sheriff's department because he was an elected official. He stated that another problem was that in the past, when a sheriff left office, his personnel left as well. The City Manager stated that the County could not afford to establish a complete new department at this time. He stated that the sheriff had said that his employees served as matrons for the jail and had various other duties and he could not afford to lose those positions.

The City Manager stated that the County hoped to proceed by August 1, 1989 with the Centralized Dispatching if the budget would allow them to do so.

Mayor Clark stated that he was concerned with the cost of the project. He stated that he had heard that the intent of the County for the two additional dispatcher positions was for the City to fund one position and for Old Fort to fund the other position. He stated that the City residents paid both City and County taxes and he did not feel that the City residents would be treated fairly if the City funded the additional position. He stated that the County did not fund anything for the City Police Department.

The City Manager stated that this option had been discussed, but had not been proposed at this time.

Councilman Ayers stated that he felt that in the beginning the operation was proposed to save money. He stated that he thought that there would not be as many dispatchers, but that was not the case. He stated that he would like to know why the City had to participate and Old Fort did not.

Councilman Little stated that he felt that if the program did not help, he did not think that the City needed it.

Councilman Ayers stated that he hoped that the program was for the benefit of the citizens. He stated that he felt that there was some underlying factors concerning the program. He stated that he felt that the dispatchers should be under the County only. He stated that he did not think that persons hired for dispatching should be matrons or file clerks that they should be dispatchers only.

The City Manager stated that he had traveled to several locations and observed the program. He stated that for the most part, the police departments remained on a separate system.

The City Manager stated that it had been suggested that the police department close at 5:00 P.M. and let the Chief have a file clerk or secretary to work during the day. He stated that there were problems with the public using the E911 for calls about pistol permits or just for questions to the Chief.

The City Manager stated that he was to take a report back to the County about how the City feels about having the dispatchers under the sheriff's department or if they felt they should hold out until a separate department could be funded by the County.

Councilman Little stated that he felt that there should be a separate department due to the potential of a large turnover at election time. He stated that he did not think that the system should be started until it could be started right.

Chief Gilsdorf stated that Commissioner Chairman Jack Wood had made an interesting point at the meeting by stating that if they could get the system in place at this time and when a problem arose, the initial cost would have been taken care of and it would be easier to re-direct the program in another direction.

A question was asked why the Police Department did not dispatch fire calls. The City Manager stated that it was because the police dispatchers did not know the exact locations of the county areas to give directions for the fires. He stated that the firemen were in favor of the Centralized Dispatching.

The City Manager stated that he needed a decision on one of the following points:

1. To proceed with the Centralized Dispatching as soon as possible.
2. To wait until a separate department for the dispatchers under the direction of the County, rather than the sheriff's department be set up.

The Mayor stated that he felt that this item would justify a special meeting with the County Commissioners.

Councilman Ayers stated that he felt that no decision should be made until they could meet with the County.

The City Manager was directed to set up a meeting with the County Commissioners and to invite the Board of Aldermen from Old Fort to discuss the Centralized Dispatching.

STREET LIGHT REQUEST - MRS. RADER - PULLIAM STREET: The City Manager stated that Mrs. Rader from Pulliam Street had called again about a street light for her residence on Pulliam Street. (Ref: Minutes of 2/7/89). He stated that he had suggested that Mrs. Rader have an electrician to fix a front porch light that would come on at dusk and go off when it was daylight. He stated that Mrs. Rader had decided to have Duke Power install a light on the pole across the street from her house at her expense.

HANDICAPPED PARKING - FIRST BAPTIST CHURCH: Councilman Little asked if the Street Committee had been able to look at the possibility of establishing a handicapped parking space at First Baptist Church on Main Street.

Councilman Cross stated that due to the weather situation, the Committee had not looked at the problem.

The City Manager stated that he would like to suggest that if a handicapped space was established, he would like for it to be on Fort Street rather than Main Street. Single parking spaces are not marked on that portion of Main Street.

Councilman Little stated that this would not serve the purpose for the space. He asked if there would be any problems with the Church continuing to use the orange traffic cones to mark the space only during Church hours. The Police Chief stated that there would be no problems. He stated if the Church wanted to identify the area with small decals on the cones, he could ticket violators. Councilman Little did not feel that would be necessary.

SNOW PLOW - COMPLAINT: Councilman Little stated that he had received a call concerning the snow plow. He stated that the person who called told him that the street he lived on allowed parking only on one side of the street and the cars were pointed down the hill. He stated that the snow plow blade is turned so that it pushes the snow directly onto the cars and they cannot get out. He asked if the personnel could be reminded to switch the blade on the plow to force the snow on the other side of the street.

The City Manager stated that he would have to let the Public Works Department decide which side of the street the snow would be placed.

SHOE REPAIR - CONDEMNATION - PROGRESS: Councilman Tyler asked how the progress with the condemnation procedures for the shoe repair shop on State Street was coming? He was informed that the shop was under the condemnation procedures and that some progress had been made in cleaning up the shop, but it would not pass inspection requirements.

EXECUTIVE SESSION - PERSONNEL MATTER: Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to go into Executive Session to discuss a personnel matter.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to return to Regular Session.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to uphold the decision of the Public Works Director, Grievance Committee and the City Manager.

PERSONNEL ORDINANCE - PROPOSED CHANGES: The City Manager handed out copies of proposed changes to the City of Marion Personnel Ordinance to Council. He stated that the ordinance contained more detailed descriptions in some sections and several new sections were added.


City Attorney Penn Dameron stated that he would like to talk to Council prior to adoption of the ordinance concerning whether they needed an ordinance or resolution. He stated that an ordinance was enforceable as a law, where a resolution was a statement of policy.

The City Manager stated that the following sections had been added to the ordinance:

Details as to dismissals
Policy concerning suspicion of alcohol or drug use
Tardiness
Sexual Harassment
Holiday option for shift workers

The City Manager stated that a problem had arisen recently concerning an employee who was injured on the job. He stated that the employee did not feel that he should be required to take vacation or sick time for the time he was absent due to the injury. He stated that the workman's compensation did not pay until a certain waiting period had been met. He stated that two possible options for the problem had been included with the proposed ordinance. He stated that Robert Parker, Personnel Director had called several municipalities and that four of the six required the employee to use sick or vacation time. He stated that Mr. Parker had not been able to talk with anyone at Huett/Coleman who paid the City's workmen's compensation claims, but he had understood that they recommend the employee be required to use sick and/or vacation leave until the period when they begin to pay.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

MARCH 7, 1989

The City Council for the City of Marion met in Regular Session on Tuesday, March 7, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen John Cross, Steve Little, Joe Tyler and Angus Stronach.

BOARD MEMBER ABSENT: Councilman Robert Ayers.

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Alvin Callahan, Building Inspector; Glen Sherlin, Public Works Director; Arthur C. Edwards, Fire Chief; Bill Gilsdorf, Police Chief; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mrs. Jerri Helms, 23 Hunt Street; Mrs. Luther Honeycutt, 710 Baldwin Avenue; Charles H. and Mary Owensby, 714 Baldwin Avenue; Mrs. Evelyn Hollifield, 25 Hunt Street; Mereda Mills, 22 Hunt Street; Estelle Honeycutt, Hunt Street; Ronnie Burgin, Hunt Street; James Ouzt, U. S. Forest Service; Hazel McNeil, Hwy 70 West; Donna Piper, East Court Street; and Woody Hartin, North Carolina Department of Natural Resources and Community Development.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman

Cross, those members of Council present voted unanimously to approve the minutes of the February 21, 1989 meeting.

HUNT STREET - EAST MARION - REQUEST FOR REPAIRS: Several residents of Hunt Street appeared before the Council to present a petition requesting the City to make repairs to a portion of their street that is caving in.

It was thought by the residents of Hunt Street present that when the City annexed the East Marion area the streets would be maintained by the City.

The City Manager informed the Council and those present that Hunt Street was not a City street and that research showed that this property, known as Hunt Street, was actually still owned by Marion Manufacturing Company.

Glen Sherlin, Public Works Director, stated that the problem was being caused by a drain pipe carrying water off Baldwin Avenue. The drain pipe is collapsing and caving in, not only in the street but also on the property between Baldwin Avenue and Hunt Street. He stated that he felt the problem was the responsibility of the State. Discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to approve immediate temporary repair to the street and to make it safe and for the Street Committee to investigate the matter for recommendations to Council.

PUBLIC HEARING: The City Manager opened the Public Hearing concerning the following:

(1) **ANNEXATION OF PROPERTY LOCATED ON HIGHWAY 70 WEST:** The City Manager presented a map of property located on Highway 70 West of Marion proposed for annexation by petition received from the following property owners: Mr. Larry Robinson, Trustee for Ruby Pauline Simpson; Hazel Grace McNeil, Barbara R. McNeil; Curtis D. Hawkins and Virginia G. Hawkins, Co-Administrators for the Estate of C.D. Hawkins. All the property in the proposed annexation has been purchased by a real estate developer who plans to build a community shopping center.

No one was present at the Public Hearing concerning the proposed annexation.

(2) **PUBLIC HEARING - ZONING OF PROPOSED HIGHWAY 70 WEST ANNEXATION:** The City Manager presented the Council with recommendations from the City of Marion Planning Board that the area proposed for annexation of property located along Highway 70 West be zoned C-2 General Business District as requested by the developer to allow the construction of a community shopping center.

No one was present at the Public Hearing concerning the zoning of the proposed annexation area.

(3) **REZONING REQUEST - RAYMOND AND GLADYS ROBINSON -ROBINSON ROAD:** The City Manager presented a request from Raymond and Gladys Robinson that property they own located on Robinson Road be rezoned from R-1 Single Family Residential District to C-2 General Business District to allow the construction of a community shopping center.

He explained that the property owned by Raymond and Gladys Robinson is part of the property to be developed in the above mention proposed annexation area. He presented the recommendations of the City of Marion Planning Board that the property be rezoned as requested.

No one was present at the Public Hearing concerning the rezoning request.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to rezone the property owned by Raymond and Gladys Robinson, located on Robinson Road, from R-1 Single Family Residential District to C-2 General Business District.

There being no further business, the Public Hearing was closed.

RIDLEY STREET - IMPROVEMENTS - COST ESTIMATES: The City Manager presented the Council with copies of the cost estimated for improvements on Ridley Street prepared by the Public Works Director as follows:

Section #1: From Sugar Hill Road for a distance of 135' on Ridley Street - \$4,565.00.

Section #2: From the ending of Section #1 to the intersection of Ridley Street with unopened Pennsylvania Street - \$7,295.00.

The City Manager stated that the work would be done by City crews. Any necessary surveyor cost would be additional.

The City Manager stated that in following City policy, the City's cost would be

twenty-five percent (25%) of the estimated cost and the remaining seventy-five percent (75%) of cost would be assessed to property owners abutting the street improvements.

The City Manager was directed to notify the property owners concerning of the costs of improvements.

HIGHWAY 70 ANNEXATION - ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION: Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following Ordinance:

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF MARION, NORTH CAROLINA**

WHEREAS, the City Council has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:00 o'clock, P.M. on the 7th day of March, 1989; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marion, North Carolina:

Section 1. By virtue of the authority granted by G.S. 160A-31, as amended, the following described territory, is hereby annexed and made a part of the City of Marion as of the 7th day of March, 1989:

BEGINNING on an iron pin set at the north margin of the intersection of New Robinson Road (S.R. 1505) with the east back of the curb for U.S. 70-221, said iron pin being located N 52° 21' 46" W 817.42' from NCGS Monument "Machine" (said monument having coordinates y = 719,095.797 and x = 1,104,616.884), and runs thence from said **BEGINNING** point and with the back of the curb for U.S. 70-221, the following seven (7) bearings and distances:

N 53° 04' 33" W 163.72' to an iron pin set; N 53° 04' 33" W 35.15' to an iron pin set; N 53° 04' 33" W 307.48' to an iron pin set; N 53° 04' 33" W 84.11' to a point; N 52° 44' 31" W 87.71' to a point; N 51° 04' 52" W 174.50' to a point; N 49° 25' 47" W 106.94' to an iron pin set;

Thence leaving the back of the curb for U.S. 70-221 and running with the line of Hollifield, the following four (4) bearings and distances:

N 42° 17' 06" E 52.65' to an iron pin set; N 49° 38' 00" W 150.00' to an iron pin set; N 42° 17' 06" E 100.00' to an iron pin set; N 49° 38' 00" W 95.36' to an iron pin set on the west edge of a 12 foot drive, said iron pin being located S 49° 38' 00" E 4.64' from an existing iron pin;

Thence with the west edge of said 12 foot drive, the following five (5) bearings and distances:

N 42° 17' 06" E 74.50' to an iron pin set; N 54° 18' 25" E 140.00' to an iron pin set; N 74° 44' 39" E 136.00' to an iron pin set; N 59° 21' 03" E 149.29' to an iron pin set; N 52° 27' 09" E 100.00' to an iron pin set;


Thence leaving the west edge of said 12 foot drive, N 37° 00' 04" E (passing and existing iron pin at 230.00') a total distance of 269.10' to an iron pin set, said iron pin set being located S 53° 37' 19" E 628.91' from a 10' Blackjack Oak, the southwest corner of the Nichols property, thence with the Nichols line, S 53° 37' 19" E 514.91' to an existing iron pin, thence S 54° 40' 19" W 215.09' to an existing iron pin thence S 39° 21' 53" E 92.10' to an existing iron pin, thence S 31° 31' 30" E 87.91' to an existing iron pin thence S 19° 48' 12" E 199.51' to an existing iron pin, thence S 10° 07' 08" E 199.93' to an existing iron pin, thence S 23° 31' 19" W 125.15' to an existing iron pin, city limits corner, thence with said city limits lines to the beginning as follows:

S 53° 48' 42" W 81.00' to an iron pin set; thence continuing S 53° 48' 42" W 63.3' to an existing iron pin, thence S 25° 42' 42" W 63.3' to an existing iron pin, thence S 25° 42' 14" E 119.13' to an existing iron pin, thence S 49° 21' 05" W 141.34' to an iron pin set, thence S 62° 45' 11" W 51.70' to the **BEGINNING**, containing 20.20 acres by DMD.

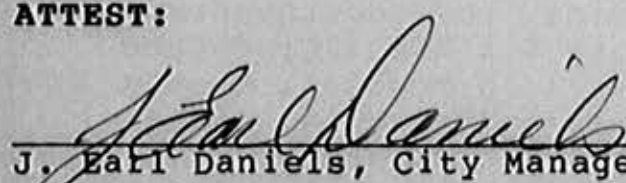
Section 2. Upon and after the 7th day of March, 1989, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor and City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in **Section 1.** hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the City Board of Elections as required by G.S. 163-288.1.

ADOPTED this the 7th day of March, 1989.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

ZONING OF HIGHWAY 70 ANNEXATION: Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to zone all the property included in the Highway 70 West Annexation as C-2 General Business District.

RESOLUTION OF INTENT - 5 LANE AREA: The city Manager presented a map of the proposed 5-Lane Annexation located along Highway 70 West of the City of Marion. Mr. Woody Harton, Planner, North Carolina Department of Natural Resources and Community Development, described the proposed boundary of the annexation and reviewed the procedures for annexation of the area.

Upon a motion by Councilman little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following Resolution:

**A RESOLUTION STATING THE INTENT OF THE CITY OF
MARION TO CONSIDER ANNEXATION OF THE AREA DESCRIBED
HEREIN AND FIXING THE DATE OF PUBLIC HEARING ON THE QUESTION
OF ANNEXATION**

BE IT RESOLVED by the City Council of the City of Marion:

Section 1. That it is the intent of the City Council of the City of Marion, to consider annexation of the following described territory pursuant to Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina:

BEGINNING at a point, said point being located on the existing corporate limit boundary of the City of Marion approximately 200' northeast of the northern boundary of U.S. Highway 70/221 as measured in a straight line perpendicular to said boundary, said point also being approximately 47' northeast of the westernmost corner of property annexed on petitions by an ordinance enacted by the Marion City Council on March 7, 1989 as measured along the boundary of said annexation; thence following in a northwesterly direction a line 200' northeast of and parallel to the northeastern boundary of U.S. Highway 70/221 approximately 780' and crossing lots 1 and 2 in block 1 of McDowell County Tax Map 11 to a point, said point being located on the southeastern boundary of lot 2A in Block 1 of McDowell County Tax Map 11, said point also being approximately 200' northeast of the northeastern boundary of U.S. Highway 70/221; thence following the boundary of said lot 2A in a northeasterly direction approximately 43' to a point, said point being the easternmost corner of said lot 2A; thence following the eastern boundary of said lot 2A approximately 100' in a northerly direction to a point, said point being located at the intersection of said property boundary with the southern boundary of lot 1 in Block 2 on McDowell County Tax Map 56C; thence following the southern boundary of said lot 1 approximately 10' to a point, said point being the easternmost corner of said lot 1; thence following the eastern boundary of said lot 1 approximately 319.5' in a northwesterly direction to a point, said point being the northernmost corner of said lot 1, said point also being located on the southern boundary of lot 2 in Block 2 on McDowell County Tax Map 56C; thence following the boundary of said lot 2 first approximately 72' in a northeasterly direction, then approximately 92' in an easterly direction, then approximately 210' in a northwesterly direction, then approximately 320' in a westerly direction to a point, said point being located at the intersection of said boundary with the eastern boundary of lot 2A in Block 2 on McDowell County Tax Map 56C; thence following the boundary of said lot 2A first approximately 67' in a northerly direction, then approximately 141' in a southwesterly direction to

a point, said point being located at the intersection of said boundary with the northeastern boundary of U.S. Highway 70/221; said point also being at the intersection of said highway boundary with the southeastern boundary of Garden Creek Road (S.R. 1506); thence following in a straight line in a northwesterly direction approximately 40' and crossing Garden Creek Road to a point, said point being located at the intersection of the northwestern boundary of Garden Creek Road with the northeastern boundary of U.S. Highway 70/221, said point also being the southernmost corner of lot 8 in Block 1 on McDowell County Tax Map 49C; thence following the western boundary of Garden Creek Road in a northerly and then a northwesterly direction approximately 1192' said boundary also being the western boundary of lots 5, 6, 7 and 8 in Block 1 on McDowell County Tax Map 49C to a point, said point being at the intersection of the northernmost corner of said lot 5 with the western boundary of Garden Creek Road; thence following the northwestern boundary of said lot 5 approximately 110' in a northwesterly direction to a point, said point being in the center of Garden Creek, said point also being the intersection of said boundary of lot 5 with the northeastern boundary of lot 4 in Block 1 on McDowell County Tax Map 49C; thence following the centerline of Garden Creek approximately 485' in a northwesterly direction to a point, said point being located at the northernmost corner of lot 2 in Block 1 on McDowell County Tax Map 49C; said point also being a corner of lot 1 in Block 1 on McDowell County Tax Map 49C; said centerline also forming the northeastern boundary of lots 2, 3, 3A and 4 in Block 1 on McDowell County Tax Map 49C; thence following the eastern and southern boundary of lot 1 in Block 1 on McDowell County Tax Map 49C first approximately 70' in a northwesterly direction, then approximately 200' in a northeasterly direction to a point, said point being at the intersection of said boundary with the southwestern boundary of Garden Creek Road; thence following said road boundary (said boundary also being the northeastern boundary of said lot 1) in a northwesterly direction approximately 540' to a point, said point being at the intersection of said highway boundary with the southeastern boundary of an unnamed road, said point also being the northernmost corner of said lot 1; thence crossing said unnamed road, in a straight line in a northwesterly direction approximately 20' to a point, said point being located at the intersection of the southwestern boundary of Garden Creek Road with the northwestern boundary of said unnamed road said point also being the easternmost corner of lot 12A in Block 1 on McDowell County Tax Map 54C; thence following the southwestern boundary of Garden Creek Road (said boundary also being the northeastern boundary of lots 12 and 12A in Block 1 on McDowell County Tax Map 54C) in a northwesterly direction approximately 385' to a point, said point being the intersection of the northernmost corner of said lot 12 with said road boundary; thence following the northwestern boundary of said lot 12 in a southwesterly direction approximately 225' to a point, said point being at the intersection of the easternmost corner of lot 9 and the southernmost corner of lot 14, both lots being in Block 1 on McDowell County Tax Map 54C; thence following the northeastern and northwestern boundary of said lot 9 first approximately 75' in a northwesterly direction, then approximately 50' in a northwesterly direction then, approximately 45' in a northeasterly direction, then approximately 150' in a northwesterly direction, then approximately 145' in a northeasterly direction, then approximately 195' in a northwesterly direction (also being the southwestern boundary of Garden Creek Road) then approximately 170' in a southwesterly direction to a point, said point being at the intersection of the northwestern boundary of said lot 9 with the northeastern boundary of lot 8 in Block 1 on McDowell County Tax Map 54C, said point also being on the centerline of Garden Creek; thence following the centerline of Garden Creek in a northwesterly direction approximately 948' to a point, said point being at the intersection of the centerline of said creek with the eastern boundary of Garden Creek Road, said centerline also forming the northeastern boundary of lots 1, 2, 2A, 2B, 3, 4, 5, 6, 7, 8, and 8A in Block 1 on McDowell County Tax Map 54C; thence following the centerline of Garden Creek in a northwesterly direction approximately 20' and crossing Garden Creek Road to a point, said point being located at the intersection of said centerline with the western boundary of Garden Creek Road; said point also being located on the eastern boundary of lot 2A in Block 1 on McDowell County Tax Map 19; thence continuing to follow the centerline of Garden Creek in a northerly direction approximately 1200' to a point, said point being on the centerline of the Catawba River; thence following the centerline of the Catawba River in a westerly direction approximately 1760' to a point, said point being at the intersection of the centerline of the Catawba River with the western boundary of the right-of-way of U.S. Highway 70/221 By-Pass; thence following the western boundary of said right-of-way in a southerly direction approximately 440' to a point, said point also being approximately 840' north of the northern boundary of the right-of-way of U.S. Highway 221 as measured along the western boundary of the right-of-way of U.S. Highway 221 By-Pass; thence following in a straight line in a westerly direction approximately 1365' to a point, said point being located approximately 730' north of the northern boundary of the right-of-way of U.S. 70 as measured by a straight line perpendicular to said right-of-way; thence following said straight line in a southerly direction approximately 730' to a point where said straight line intersects the northern boundary of the right-of-way of U.S. Highway 70; thence following in a straight line perpendicular to said right-of-way in a southerly direction approximately 100' to a point, said point being on the southern boundary of the right-of-way of U.S. Highway 70; thence following the southern boundary of said right-of-way in a easterly and thence southerly direction and crossing the right-of-way of U.S. Highway 221 By-Pass

approximately 2800' to a point, said point being located at the intersection of said right-of-way with the northernmost corner of lot 1A in Block 1 on McDowell County Tax Map 55C; thence following the northern boundary of said lot in a westerly direction approximately 320' to a point, said point being at the westernmost corner of said lot; thence following the western boundary of lots 1A, 1, 2 and 2A in Block 1 on McDowell County Tax Map 55C in a southeasterly direction approximately 400' to a point, said point being at the southernmost corner of said lot 2A; thence following the southern boundary of said lot 2A in a northeasterly direction approximately 325' to a point, said point being at the intersection of said boundary with the southwestern boundary of U.S. Highway 70/221; thence following said highway boundary in a southeasterly direction approximately 15' to a point, said point being at the intersection of said boundary with the western boundary of Peachtree Street (S.R. 1220); thence crossing the boundary of Peachtree Street in a straight line in a southeasterly direction approximately 40' to a point, said point being at the intersection of the eastern boundary of Peachtree Street and the southwestern boundary of U.S. Highway 70/221; thence following the eastern boundary of Peachtree Street in a southeasterly direction approximately 280' to a point, said point being at the northernmost corner of lot 7 in Block 5 on McDowell County Tax Map 55C; thence following a line in a southeasterly direction approximately 675' to a point, said point being at the southernmost corner of lot 9 in Block 5 on McDowell County Tax Map 55C, said line also being the southwestern boundary of lots 5, 8, and 9 in Block 5 on McDowell County Tax Map 55C; thence following the southern boundary of said lot 9 first approximately 90' in a northeasterly direction, then approximately 25' in a southeasterly direction, then approximately 20' in a northeasterly direction to a point, said point being at the westernmost corner of lot 10 in Block 5 on McDowell County Tax Map 55C; thence following the southwestern boundary of said lot 10 and lot 11 in Block 5 on McDowell County Tax Map 55C in a southeasterly direction approximately 114' to a point, said point being at the intersection of the southernmost corner of said lot 11 with the northwestern boundary of lot 12 in Block 5 on McDowell County Tax Map 55C; thence following the northwestern and southwestern boundary of said lot 12 and the southwestern and southeastern boundary of lot 13 in Block 5 on McDowell County Tax Map 55C first approximately 135' in a southeasterly direction, then approximately 40' in a easterly direction, then approximately 170' in a northeasterly direction to a point, said point being at the intersection of the easternmost corner of said lot 13 with the southwestern boundary of U.S. Highway 70/221; thence following said highway boundary in a southeasterly direction approximately 661'; to a point, said point being at the easternmost corner of a 2.045 acre tract of land conveyed by Great Meadows, Inc. to Arthur T. Williams, III, (D.B. 184, Pg. 355) said point also being on the southern boundary of S.R. 1301; thence following the northern boundary of said tract in a westerly direction 691.94' to a point, said point being at the northwestern corner of said tract; thence following in a straight line in a southeasterly direction 939.72' to a point, said point being at the southwestern corner of a 6.98 acre tract of land deeded to Arthur T. Williams, III (D.B. 376, Pg. 297), said point also being located on the northern boundary of lot 2 in Block 1 on McDowell County Tax Map 56C, said straight line also being the western boundary line of said Great Meadows tract (D.B. 184, Pg. 355) and said Arthur T. Williams, III, tract (D.B. 376, Pg. 297); thence following in a straight line in a southwesterly direction approximately 280' to a point, said point being at the westernmost corner of lot 3 in Block 1 on McDowell County Tax Map 56C; thence following the southern boundary of said lot 3 in a easterly direction approximately 570' to a point, said point being at the intersection of said property line with the northwestern boundary of lot 4 in Block 1 on McDowell County Tax Map 56; thence following the northwestern boundary of said lot 4 in a southwesterly direction approximately 225' to a point, said point being at the intersection of said boundary and the northern boundary of an access easement for lot 5L in Block 1 on McDowell County Tax Map 56C; thence crossing said access easement in a straight line in a southwesterly direction approximately 20' to a point said point being at the intersection of the southern boundary of said access easement and the western boundary of said lot 4; thence following the western boundary of said lot 4 in a southerly direction approximately 360' to a point, said point being at the intersection of said boundary with the northernmost corner of lot 1C in Block 1 on McDowell County Tax Map 57C; thence following the southwestern boundary of said lot 1C and lot 1B and 1A in Block 1 on McDowell County Tax Map 57C in a southeasterly direction approximately 1770' to a point being at the intersection of the southwestern boundary of said lot 1A with the northwestern boundary of lot 2 in Block 1 on McDowell County Tax Map 57C; thence following the northwestern boundary of said lot 2A in a northeasterly direction approximately 8' to a point, said point being at the westernmost corner of lot 1 in Block 3 on McDowell County Tax Map 57C; thence following the southwestern boundary and then the southeastern boundary of said lot 1 first approximately 140' in a southeasterly direction and then approximately 70' in a northeasterly direction to a point, said point being at the westernmost corner of lot 3 in Block 3 on McDowell County Tax Map 57C; thence following the southwestern boundary of said lot 3 and lot 4 in Block 3 on McDowell County Tax Map 57C approximately 100' in a southeasterly direction to a point, said point being at the southernmost corner of said lot 4 thence following in a straight line in a southeasterly direction approximately 41' and crossing lot 5 in Block 3 on McDowell County Tax Map 57C to a point, said point being at the northernmost corner of lot 10 in Block 3 on McDowell County Tax Map 57C; thence following the northwestern boundary of

said lot 5 approximately 125' in a southwesterly direction to a point, said point being at the westernmost corner of said lot 10; thence following in a southwestern boundary of said lot 10 in a southeasterly direction approximately 590' to a point, said point being at the southernmost corner of said lot 10; thence following in a straight line in a southwesterly direction and crossing Forest Road approximately 18' to a point, said point being at the easternmost corner of lot 1 in Block 4 on McDowell County Tax Map 57C; thence following the eastern boundary of said lot 1 in a southwesterly direction approximately 257' to a point, said point being at the southeastern corner of said lot 1 and said point also being at the intersection of the northwestern boundary of Valley Street (S.R. 1206) and the northern boundary of John Gilkey Road; thence following in a straight line in a easterly direction and crossing Valley Street approximately 40' to a point, said point being at the westernmost corner of lot 1 in Block 5 in McDowell County Tax Map 57C; thence following in a southern boundary of said lot 1 in a easterly direction approximately 280' to a point, said point being at the southeastern corner of said lot 1, said point also being on the northwest boundary of Rector Street, an unopened street as shown on McDowell County Tax Map 47C; thence following said boundary of Rector Street in a southwesterly direction approximately 65' to a point, said point being at the westernmost corner of Rector Street; thence following in a straight line in a southeasterly direction and crossing Rector Street approximately 30' to a point, said point being at the westernmost corner of lot 1 in Block 1 on McDowell County Tax Map 47C; thence following the southeastern boundary of said lot 1, an unnumbered lot, lot 3B and lot 3A and the eastern boundary of lot 3 and lot 5, all said lots being located in Block 1 on McDowell County Tax Map 47C in a southeasterly and then southwesterly direction approximately 1102' to a point, said point being at the intersection of the southern boundary of Valley Street (S.R. 1206) and the eastern boundary of an unnamed road as shown on McDowell County Tax Map 47C, said line also being the northeastern, eastern and southern boundary of Valley Street, thence following in a straight line in a westerly direction and crossing said unnamed road approximately 40' to a point, said point being at the intersection of the southern boundary of Valley Street and the western boundary of said unnamed street, said point also being located on the northern boundary of lot 5 in Block 1 on McDowell County Tax Map 47C; thence following the northern boundary of said lot 5 (said boundary also being the southern boundary of Valley Street) in a westerly direction approximately 1100' to a point, said point being at the intersection of said boundary of said lot 5 with the northern boundary of lot 5C in Block 1 on McDowell County Tax Map 47C; thence continuing to follow the western and southern boundary of said lot 5 in a southerly and then easterly direction approximately 2748' to a point, said point being at the intersection of the southern boundary of said lot 5 and the western boundary of Finley Road (S.R. 1209), said boundary also forming common boundaries with lots 5C, 5F, 5D, 5E, 5B, 5A, 6, 7, 8, and 5G all being located in Block 1 on McDowell County Tax Map 47C; thence following the eastern boundary of said lot 5 (said boundary also being the western boundary of Finley Road) in a northeasterly direction approximately 645' to a point, said point being at the intersection of said boundary of Finley Road and the southwestern boundary of an unnamed road as shown on McDowell County Tax Map 47C; thence crossing said unnamed road in a straight line in a northeasterly direction approximately 25' to a point, said point being at the intersection of the northwestern boundary of Finley Road and the northwestern boundary of said unnamed road, said point also being located on the southeastern boundary of said lot 5 thence following said boundary of lot 5 in a northeasterly direction approximately 140' to a point, said point being on the northwestern boundary of Finley Road; thence crossing Finley Road in a straight line in a southeasterly direction approximately 38' to a point, said point being at the intersection of the southeastern boundary of Finley Road with the westernmost corner of lot 22 in Block 1 on McDowell Tax Map 43C; thence following the western boundary of lots 22, 19, 20, and 21 in a southeasterly direction approximately 865' to a point, said point being at the southernmost corner of said lot 21, said point also being on the northwestern boundary of lot 11C in Block 1 on McDowell County Tax Map 43C thence following said boundary of said lot 43C and the northwest boundary of lot 11D of Block 1 on McDowell County Tax Map 43C in a southwesterly direction approximately 598' and then following the western boundary of said lot 11B in a southerly direction approximately 425' to a point on the present Corporate Limits of the City of Marion; thence following the Corporate Limits of the City of Marion in a generally northerly and westerly direction approximately 6449.90' to point of BEGINNING.

Section 2. That a public hearing on the question of annexing the above described territory will be held in the City Council Chamber at 7:00 o'clock P.M., on the 2nd day of May, 1989, at which time plans for extending service to said territory will be explained and all residents and property owners will be given an opportunity to be heard.


Section 3. That a report of plans for extending services to the above described territory be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of said public hearing.

Section 4. That a legible map of the area to be annexed and a list of person holding freehold interests in property in the area to be annexed who have been identified be posted in the office of the City Clerk at least thirty (30) days

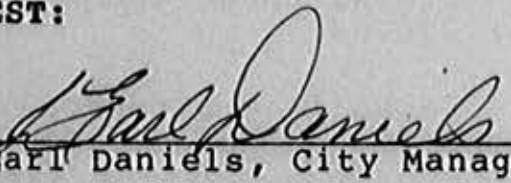
prior to the date of said public hearing.

Section 5. That notice of said public hearing shall be given by publication and first class mail, as required by G.S. 160A-37.

ADOPTED this the 7th day of March, 1989.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

RESOLUTION - AUTHORIZING CITY MANAGER TO ENTER INTO SOC: The City Manager presented Council with a Special Order by Consent (SOC) concerning equalization of wastes from Galey and Lord for the Clinchfield Plant.

The City Manager was directed to review the SOC with bill Hunnicutt, Chief Operator of the Wastewater Treatment Plant.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following Resolution:

RESOLUTION - VEGETATION MANAGEMENT IN THE APPALACHIAN MOUNTAINS: The City Manager presented a letter from the Town of Boone, North Carolina, requesting the City of Marion to join them in endorsement of specific alternatives for Vegetation Management in the Appalachian Mountains published by the U.S. Forest Service.

Mr. John Ouzt of the U.S. Forest Service was present to discuss the present methods and herbicides being used in vegetation control.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to table the matter.

PROCLAMATION - ARBOR DAY: Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to authorize the Mayor to sign the following Proclamation:

PROCLAMATION

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed through the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, The City of Marion has been recognized as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

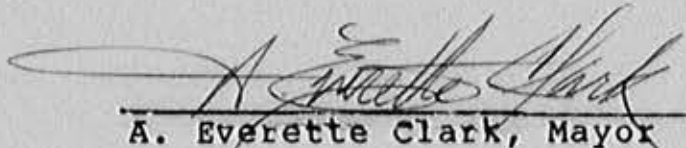
NOW THEREFORE, I, A. Everett Clark, Mayor of the City of Marion, do hereby proclaim March 17, 1989 as

ARBOR DAY

in the City of Marion, and I urge all citizens to support efforts to protect our trees and woodlands to support our City's urban forestry program, and

FURTHER, I urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

DATED THIS THE 7th DAY OF MARCH, 1989.


A. Everett Clark, Mayor

TREE BOARD - POEM CONTEST: The City Manager presented a request from Mr. Warren Hobbs, Chairman of the Tree Board, for a donation from the City of Marion in the amount of \$25.00 to cover cost of prizes to be given to the winners of the poem contest being sponsored by the Tree Board.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to approve a donation of \$25.00.

PARKING ORDINANCE - NORTH MAIN STREET: Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of the Council present voted unanimously to adopt the following Ordinance:

TRAFFIC AND PARKING ORDINANCE

North Main Street

BE IT ORDAINED by the City Council of the City of Marion, North Carolina, as follows:

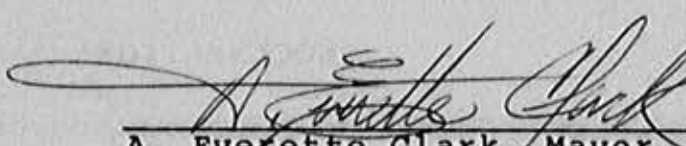
Section 1. When signs are erected or curbs are painted yellow giving notice thereof, no person shall park a vehicle on any of the streets or portions of streets described below:

- a. Main Street, North - West side, from New Street in a southern direction for a distance of two hundred seventy five feet (275').

Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 7th day of March, 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Clerk

O-89-03-07

Ordinance Number _____

PERSONNEL RESOLUTION: Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Resolution:

PERSONNEL RESOLUTION CITY OF MARION

ARTICLE I. ADMINISTRATION OF THIS RESOLUTION

The City Manager shall be responsible for the administration of this personnel resolution which shall apply to all appointed employees of the City of Marion.

ARTICLE II. PURPOSE

The purpose of this policy is to establish a personnel system which will recruit, select, develop and maintain an effective and responsible work force.

ARTICLE III. RECRUITMENT AND EMPLOYMENT

Section 1. - STATEMENT OF EQUAL OPPORTUNITY EMPLOYMENT

It is the policy of the City of Marion to foster, maintain, and promote equal opportunity. The City shall select employees on the basis of applicants' qualifications and without regard to age, sex, race, color, creed, religion, handicap, political affliction or national origin except where specific

requirements constitute a bona fide occupational qualification necessary for job performance.

Section 2. - APPOINTMENTS

Appointments to positions with the City shall be made on the basis of job related ability training and experience.

A. Positions of the City Clerk, Tax Collector, Finance Officer, Public Works Director, Fire Chief, and Chief of Police shall be appointed, promoted, suspended and dismissed by the City Council upon recommendation of the City Manager.

Appointments to the position of Assistant Fire Chief, and/or Assistant Chief of Police shall be made by the City Council upon recommendation from the appropriate department head and the City Manager.

All other department heads and supervisors shall be appointed by the City Manager.

B. Other employees will be appointed by the department head supervising the employee, subject to the approval of the City Manager; however, a worker may be employed by a department head whenever a vacancy exists.

Applicants for employment by the City of Marion may be required to pass appropriate competitive written or physical examinations to determine if they meet the established standards. Examinations, if required, shall be prepared and given under the direction of the City Manager or his designated representative. Physical examinations, if required, will be at the expense of the City of Marion. These requirements shall be based on the position and the demands of that position.

Types of Appointments Available:

Regular: Appointed after qualifying for regular, year round employment and after serving a probationary period. Regular employees are entitled to all City benefits.

Year Round Part-Time: An employee that works an established number of hours on a year-round basis. Such employees are not entitled to City benefits.

Seasonal or Temporary: Qualified employees appointed for a seasonal job or for a short period of time. Such employees are not entitled to City benefits.

Section 3. - VACANCIES

The City will make every attempt to be an equal opportunity employer, but when it comes to filling vacancies, efforts will be made to promote qualified employees from within the City forces before seeking an outside replacement.

Section 4. - PROBATIONARY PERIOD

All appointments to full time positions in the service of the City shall serve a six-month probationary period. Exception: Sworn Public Safety positions which serve a State required twelve-month probation and newly employed department heads and supervisors or individuals appointed by the City Council and/or City Manager will not be required to complete a probationary period. This includes: Chief Water Plant Operator; Chief Wastewater Plant Operator; Zoning Administrator; Fire Chief; Police Chief; Chief of Inspections; Personnel Director; Finance Officer; Purchasing Agent; Tax Collector; Public Works Director; and Street Superintendent. During and at the end of the probation, the employee's supervisor, and/or department head or the City Manager will evaluate the employee's performance. One of the following alternatives shall be chosen for the employee:

1. Regular employment based on satisfactory performance.
2. Extension of the probationary period.
3. Dismissed based on unsatisfactory performance.

It shall be noted that any probationary employee may be dismissed at any time during the probationary period. Such

probationary employees do not have the right of appeal through the City of Marion Grievance Procedure.

ARTICLE IV. SALARIES

Section 1. - PAY PLAN

The pay plan is intended to provide fair compensation for all classes in the

classification plan. Each class of positions is assigned to a salary range based on the same duties at varying performance levels. The pay plan shall include all regular positions in the municipal service except the City Manager who is responsible for the administration and maintenance of the positions classification plan.

Section 2. - HIRING PAY

The minimum rate established for a particular class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the minimum may be made on the recommendation from the department head with the approval of the City Manager. Above-the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the minimum education and training for the class, and a shortage of qualified applicants available at the minimum.

Section 3. - PAY INCREASES

Salary increases shall be granted only in recognition of superior service, improved performance, prevailing wage rate increases, cost of living adjustment, or change in duties. Increases will be recommended to the City Manager by department heads. Planning for pay increases should be done prior to time of budgeting.

Section 4. - PAYROLL DEDUCTIONS

Only payroll deductions mandated or authorized by:

- Federal Law - Federal Income Tax
Social Security
- State Law - State Income Tax
Retirement
- Employees - Insurance Coverage
(Health, Life, Dental, Dependant Coverage)
Credit Union
Contribution (United Way)

may be deducted at each pay period from each employees pay.

Section 5. OVERTIME PAY

Overtime is any time worked over the regular work week. On occasions, employees may be required to work overtime in cases of emergency or when it is in the best interest of the City.

A. Employees on an hourly basis are eligible for overtime pay on a one and one-half (1 1/2) times basis for all work over forty (40) hours during the work week.

B. Employees in firefighting classes will be paid overtime rates for hours worked beyond 212 in a 28 day work period.

C. Employees in law enforcement classes will be paid overtime rates for hours worked beyond 86 in a 14 day work period.

Employees may be compensated by compensatory time off within the work week, on an hour for hour basis.

Employees on an hourly basis working holidays shall be paid for the holiday if they report the workday before the holiday and the workday after the holiday. In addition, employees shall be paid at their regular hourly rate for the hours worked on holidays.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. - APPLICABILITY OF ARTICLE

The provisions of this article shall be to all municipal employees except elected officials.

Section 2. - RESIDENCY REQUIREMENTS

All regular employees of the City of Marion are required to live within McDowell County. Upon appointment to a position, one has a one (1) year time limit to comply with this policy.

Employees with designated emergency positions shall live within the City Limits. Those designated at this time are:

City Manager
 Fire Chief
 Police Chief
 Public Works Director

An emergency employee, who plans to change residence, must give prior notice.

Section 3. - OUTSIDE EMPLOYMENT

The work of the City should take precedence over the other occupational interests of the employees. All outside employment for salary, wages or commissions and all self-employment must be reported to and approved by an employee's department head. Conflicting outside employment shall be grounds for dismissal.

Section 4. - POLITICAL ACTIVITY

City Employees are encouraged to register and vote not only in City elections, but in all referendums. It is not the intent of City policy to interfere with the free exercise of political rights. While employees may join or affiliate with political organizations, may attend political meetings and support, financially or otherwise, the principals or policies of political organizations, however, employees must be careful to separate their political activities from their employment with the City.

1. No City Employee shall take an active part in, or solicit contributions or donations from fellow employees to any political campaign while either is at work for the City;
2. No City Employee shall distribute badges, pamphlets, or handbills of any kind favoring or opposing any candidate or any issue while on the job or while wearing a police, fire, or other City uniform or using a City vehicle;
3. No City Employee shall display election materials on any City property, use any supplies or equipment of the City for political purposes.
4. No City Employee shall use official authority or influence for the purpose of interfering with or affecting the result of an election.
5. No City Employee shall be required as a duty of employment or as a condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes.

Failure to comply with this section is grounds for immediate dismissal.

Section 5. - LIMITATION OF EMPLOYMENT OF RELATIVES (Nepotism)

For the purposes of this section, immediate family is defined as follows: Spouse, parent/guardian, children, sister, brother, grandchildren, and adopted relationships that can be derived from those named.

1. Two or more members of the immediate family shall not be employed in the same department at the same time.
2. No two employees of an immediate family shall be employed in a position which would result in one supervising a member of his/her immediate family or where one member occupies a position which has influence over the other's employment, promotion, salary, administration, or other management considerations.
3. No member of any employee's immediate family shall be hired without prior approval of the City Manager.

Section 6. - SEXUAL HARASSMENT

Sexual Harassment shall not be permitted by any employee of the City and shall not be used to control, influence or affect an employee's employment, compensation, promotion, and/or job assignment. Any employee being harassed shall report the incident to either his or her department head, the personnel director, or the City Manager immediately.

Such harassment is a violation of good employee practices and is grounds for immediate dismissal or other disciplinary action.

Section 7. - GIFTS AND FAVORS

No official employee shall accept any valuable gift, whether in the form of service, loan, object, or promise from any person, firm, or corporation which to his/her knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any such official or employee:

1. Accept any gift, favor or object of value that may tend to influence

him/her in the discharge of his/her duties.

2. Grant, in discharge of his duties, any improper favor, service, or object of value.

(Note: This section shall not prohibit employees from accepting gifts of pens, pencils, scratch pads, calendars or similar items of little value.)

ARTICLE VI. LEAVES

Section 1. - COVERAGE

All time from work with pay, except approved compensatory time, shall be charged as one of the following types of leave:

- (a) Annual Leave
- (b) Sick Leave
- (c) Military Leave
- (d) Civil Leave
- (e) Training Leave
- (f) Educational Leave
- (g) Leave Without Pay
- (h) Maternity Leave

Section 2. - VACATION AND LEAVE

For the purpose of the following leave regulations a working day is any day during which the employee actually works, or would work under ordinary circumstances. Saturday is not a working day unless the employee normally works on Saturday. A year shall be a municipal fiscal year. Regular holidays and/or Saturdays or Sundays occurring during a vacation or sick leave period shall not be considered as a day's vacation or sick leave unless the employee would have been scheduled to work on such holiday and/or Saturday and Sunday.

(a) **VACATION EARNED** - Each employee of the City shall earn vacation leave based on the following:

4.2% of the number of hours actually worked. (Multiply .042 times the number of hours actually worked to find earned vacation leave time in hours).

During the first year of employment, employees earn only one-half (1/2) the vacation leave as stated above.

(b) **APPROVAL OF ANNUAL VACATION LEAVE** - Vacation leave may be taken as earned by an employee when the employee's department head approves the leave and can arrange for the leave to be taken without increasing the expense of operating the department. No employee will be permitted to take vacation leave while serving his probationary period. Employees wishing to take vacation leave must submit an application to their immediate supervisor at least two weeks (14 days) prior to the date they wish to begin their vacation leave. Permission must be granted, in writing, by the department head.

(c) **ANNUAL VACATION LEAVE IS CUMULATIVE** - Vacation leave may accumulate to a maximum of 200 hours for forty hour per week employees; 210 hours for forty-two hour per week employees; and 212 hours for twenty eight day employees. When the maximum has been accumulated, no additional vacation leave will be earned until some of the accrued leave has been taken. No employee will be absent from his job for a period of time longer than sixteen (16) consecutive calendar days unless permission is granted, in writing, by his immediate supervisor.

(d) **TERMINAL PAY** - An employee resigning from municipal employment shall be paid for vacation leave accumulated to the date of separation provided he has completed his probationary period and provided he has submitted notice to his immediate supervisor at least two weeks (14 days) in advance of the effective date of resignation. An employee who is involuntarily separated without fault or delinquency on his/her part shall be paid for vacation leave accumulated to the date of separation. Compensation shall not be paid an employee who does not submit the required notice. Upon the death of a regular employee, there shall be paid to his/her estate a sum equal to all unused annual leave.

Section 3. - SICK LEAVE

For the purpose of the following sick leave is defined as leave from work with pay which may be charged as sick leave if the absence is due to sickness, bodily injury, quarantine, required physical or dental examinations or treatment, exposure to a contagious disease when continued work might jeopardize the health of others, illness in the employee's immediate family which requires the care of the employee, or the funeral of a member of the employee's family or of a close personal friend.

Sick leave with pay is not a right which an employee may demand but a privilege

granted by the City. Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave, or not later than two hours after the beginning of the scheduled workday, or as required by departmental rules or regulations.

(a) **SICK LEAVE EARNED** - Each regular employee shall earn sick leave as follows:

2.1% of the number of hours actually worked. (Multiply .021 times the number of hours actually worked to find earned sick leave hours.).

(b) **SICK LEAVE IS CUMULATIVE** - Sick leave shall be cumulative up to a maximum of 1,040 hours for 40 hour week employees; 1,092 hours for 42 hour per week employees; and 1,456 hours for 56 hour per week employees.

(c) **PHYSICIAN'S CERTIFICATE** - Department heads may require a physician's certificate as to the nature of the illness and as to the employee's physical capacity to resume his/her duties for each occasion on which an employee uses sick leave.

(d) **ADVANCING SICK LEAVE CREDIT** - The City Council may, upon the recommendation of the City Manager, advance

sick leave to an employee who has exhausted his/her sick leave because of a major operation or illness.

The following conditions must be met and agreed to:

1. An agreement between the employee and the City shall be signed.
2. The agreement will state that a regular City employee, upon returning to work, will reimburse the City for all advance sick leave directly or by means of payroll deductions.
3. Sick leave will only be advanced to the point where it is covered by the employees unpledged retirement benefits.
4. If the employee does not return to work the City will hold the retirement benefits until the City is reimbursed for all unpaid advance sick leave.
5. Under no circumstance will sick leave be advanced beyond the unpledged retirement benefits of the employee.

(e) **SEPARATED EMPLOYEES LOSE SICK LEAVE CREDIT** - Employees who retire or resign or are dismissed from City employment shall lose all sick leave credits. No employee shall be paid for any accrued sick leave.

(f) **SICK LEAVE AS WORKMAN'S COMPENSATION LEAVE** - An employee injured in an accident arising out of and in the course of employment may elect to use his sick leave and/or vacation leave in order to receive the difference between the Workman's Compensation payment and his/her regular salary while he/she is disabled.

This will also apply to an employee injured on the job who is out of work for less than the seven day waiting period required by Workman's Compensation.

The employee's sick leave or vacation leave shall be charged with that day or fraction of a day which the supplemental payment is of his daily salary for each day the supplemental payment is made.

Once sick leave or vacation leave is exhausted, the employee will only be entitled to the Workman's Compensation payment.

Section 4. - MILITARY LEAVE

The City Manager, upon the recommendation of the department head, may grant up to two weeks of military leave in any fiscal year to any regular City employee for Reserve or National Guard Training. While on military leave, each employee shall be compensated by the City at the amount that his/her military compensation is less than his/her City compensation. Military leave shall not be charged against annual leave for which the employee may be eligible.

Section 5. - EDUCATION LEAVE

A leave of absence at full or part pay for two weeks may be granted upon the recommendation of the department head to the City Manager to permit a municipal employee to take courses of study which will better equip the employee to perform his duties. A leave of absence at full or part pay for longer periods may be granted by the City Council upon the recommendation of the City Manager.

Section 6. - TRAINING LEAVE

When an employee is away from the job on official City business or is participating in authorized training courses or attending authorized professional conferences, it will be considered as officially working. Regular pay will continue during the absence. Such time will not be counted against his/her vacation or authorized leave. Employees absent from Marion on official business will be covered by Workman's Compensation Insurance in accordance with the North Carolina Workman's Compensation Act. The travel portion of the personnel manual applies to regular City employees, volunteer firemen, auxiliary police, City Attorney, Mayor, and City Council.

City employees traveling on official business will be reimbursed for all actual expenses paid by them from their personal funds or according to City Policy. Employees requesting reimbursement should furnish appropriate receipts to validate expenses claimed. Included in travel expenses are cost of meals, set cost per mile for use of private car when City vehicle is not available, boarding expenses in hotel or motel, registration fees, tuition fees, taxi/bus/train fares, etc. The department head shall approve such expense reimbursement application.

When family members accompany City employees during an official business trip, the employee will be responsible for all expenses incurred by those individuals.

Section 7. - CIVIL LEAVE

(a) An employee who is called for jury duty shall be entitled to leave with pay for such duty and may keep all fees received for jury duty, provided the employee reports for work during required work hours, when not required to be in court. No charge will be made against his/her accrued leave.

(b) If an employee is subpoenaed to testify in a court case, the employee must notify his/her supervisor or department head. An excused absence, without pay, will be granted for this period.

Section 8. - LEAVE WITHOUT PAY

A municipal employee may be granted a leave of absence without pay or benefits for up to one (1) year by the City Manager upon the recommendation of the supervising department head for reasons of personal or family illness, completing education, or special work which will permit the City to benefit by experience gained or the work performed.

Section 9. - MATERNITY LEAVE

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery there from shall apply in writing to her supervisor stating the nature of her condition and the anticipated dates and duration of the requested leave. The supervisor shall forward the request to the City Manager for approval.

Failure to report at the expiration of the leave of absence unless an extension has been requested and approved shall be considered a resignation.

An employee may elect to use accumulated vacation leave and/or sick leave. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Leave without pay is available up to six (6) calendar months.

Section 10. - HOLIDAYS

Employees still on probation will be given time off for holidays, but no holiday pay will be given.

All regular employees will receive the following holidays with pay:

New Year's Day
Easter Monday
July 4th
Labor Day
Thanksgiving
Christmas (See Schedule)

If New Year's Day or July 4th falls on a Saturday or Sunday, then the following Monday will be designated for the holiday.

When Christmas Falls On :	The Following Days Shall Be Observed As Holidays:
Sunday	December 23 & 26 (Fri. & Mon.)

Monday	December 25 & 26 (Mon. & Tues.)
Tuesday	December 24 & 25 (Mon. & Tues.)
Wednesday	December 24 & 25 (Tues. & Wed.)
Thursday	December 24 & 25 (Wed. & Thurs.)
Friday	December 24 & 25 (Thurs. & Fri.)
Saturday	December 24 & 27 (Fri. & Mon.)

Salaried employees, other than Fire and Police personnel, who, for reasons in the best interest of the public are required to work on a holiday shall be granted compensatory time off as soon as possible following the holiday.

The following three paragraphs apply only to the Police Department, Fire Department, Water Treatment Department and Wastewater Treatment Department.

All employees involved in a twenty-four (24) hour, seven (7) day a week operation will be granted seven days off in lieu of fixed holidays. These days can be taken at a time that is agreeable with the department head and operational schedule.

The granted time off will equal the regular scheduled shift hours that one would normally work. If one is scheduled to work eight (8) hours, then eight (8) hours will be granted off.

These days may not be taken unless they have been earned ahead of time. (Earned by the passing of a holiday).

ARTICLE VII. BENEFITS

The City of Marion will make every effort possible to insure employees are aware of all the benefits offered by the City.

Section 1. - SOCIAL SECURITY

Each municipal employee covered by Old Age and Survivors Insurance may become eligible for disability or retirement benefits in accordance with the provisions of the Social Security program.

Section 2. - RETIREMENT

Regular City employees, fire and police personnel shall become members of the North Carolina Local Government Employee's Retirement System. Employees shall not be eligible until they have completed their probationary period.

Section 3. - INSURANCE

The City of Marion will provide each regular employee with life insurance, hospitalization and dental insurance. Each employee will be permitted to subscribe to both the life and hospital insurance plans by paying the additional premiums necessary, for his/her dependents, through payroll deductions.

If an employee chooses, he may accept dependent coverage paid by the City of Marion up to a maximum of \$100.00 per month in lieu of a pay increase. The percentage of payment to dependent coverage will equal the percentage of the pay increase.

Payments may only come through pay increases and not through salary reductions.

Once an employee enters the program, he is locked in for a period of one year. (Exception - legal divorce or certificate of death). If, at the end of the year, the employee leaves the program, he may not re-enter for a period of one year.

If an employee desires to re-enter the program, notification must be given in writing to the City Manager's Secretary or the Personnel Director no later than the month of May. This must be done to insure proper budgeting.

Dependant coverage deductions will be made prior to payroll deductions thus reducing the amounts paid into retirement and social security. This will affect the final totals of contributions and may reduce them to some degree at retirement.

Fluctuations in insurance coverage will not affect the fixed \$100 deductible.

Section 4. - CITY VEHICLES

City vehicles will be provided to serve personnel for City business only. These vehicles will not be used for personal purposes. A City vehicle involved in an accident, either on the public street, or on private property, shall not be moved. The police and department head must be notified immediately.

ARTICLE VIII. LONGEVITY PAY

Longevity pay is to recognize long-term service of regular, non-elective, employees who have served at least one (1) year with the City of Marion.

Section 1. - TIME AND METHOD OF PAYMENT

1. Longevity pay is automatic - payment shall be made when all eligibility requirements are met.
2. Longevity payment shall be made in a lump sum.
3. The hiring cut-off date will be November 1 with payment being made during the month of November.

Section 2. PAY AMOUNTS

Annual longevity pay amounts are based on the length of consecutive years of service with the City of Marion. Amounts shall be computed in the following manner:

More than 1, but less than 2 years service	1 days pay
More than 2, but less than 3 years service	2 days pay
More than 3, but less than 4 years service	3 days pay
More than 4, but less than 5 years service	4 days pay
More than 5, but less than 6 years service	5 days pay

Individuals with six (6) or more years of service will receive five (5) days pay plus an established fixed amount, times the number of months of service above five (5) years. This fixed amount will be the same for all regular employees approved by the City Council.

Section 3. - ELIGIBILITY REQUIREMENTS

1. To qualify for longevity pay, an employee must be in a current pay status. Employees who have resigned, retired, or otherwise left the employment with the City prior to this time shall not qualify for payment.
2. An employee shall have at least one (1) year of qualifying service before being eligible for any longevity payments.
3. The employee must have a regular appointment.
4. Credit for the service requirement shall not be given for temporary regular or temporary part-time employment and periods of leave with the exception of military leave and Worker's Compensation leave.

Section 4. - RECORDS RESPONSIBILITY

The City bookkeeper and the personnel department will work together to keep accurate records on employees length of service and the amount of longevity pay.

Section 5. - EFFECT OF LONGEVITY PAY

Longevity pay is not to be considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual base salary.

Section 6. - PAYROLL DEDUCTIONS

The following payroll deductions are to be made from each longevity payment:

Social Security Tax (F.I.C.A.)
Employee's Retirement (exception - those on probation)

No other deductions are to be made. (Such as: savings bonds, credit union savings or payments, or insurance premiums.)

Section 7. - CONTINUANCE OF LONGEVITY

The continuance of longevity pay as an employee benefit is subject, on a year to year basis, to the availability of funds.

ARTICLE IX. - SAFETY AND ACCIDENTS:

Department heads and supervisors should do their best to protect employees from risks of occupational injury or illness.

This could be done by:

1. Instructing employees to know the hazards of the job and ways to work

safely.

2. Providing protection gear and equipment.
3. Providing the safest possible working conditions.
4. Investigating the causes of accidents when they do occur, making a written report, and giving needed corrections.

Section 1. - REPORTING INJURIES

An employee who is injured on the job shall immediately report all injuries, regardless of the need for medical attention, to his or her immediate supervisor or department head.

All injuries to City employees should be reviewed by the Safety Committee at their monthly meeting. The goal for reviewing these accidents should be to eliminate all preventable accidents due to carelessness.

Section 2. - REPORTING ACCIDENTS

If a City vehicle or equipment is involved in an accident, either on a public street or private property, it is not to be moved. The Police Department and the immediate supervisor or department head must be notified immediately. Failure to do so may be grounds for dismissal or other disciplinary action.

An investigation is to be carried out by the immediate supervisor, department head, and the personnel department.

ARTICLE X. - DISCIPLINARY ACTION

Section 1. - SUSPENSION

An employee may be suspended without pay for not more than three (3) days by a department head. Such suspension shall be reported to the City Manager.

An employee may be suspended by the City Manager for a period longer than three (3) days when it appears to be in the best interest of the City.

Section 2. - DEMOTION

An employee whose work in his/her present position is unsatisfactory but who offers promise of becoming a satisfactory employee in another position may be demoted or transferred by the City Manager.

Section 3. - VIOLATION OF GOOD EMPLOYMENT PRACTICES LEADING TO SUSPENSION, DEMOTION OR DISMISSAL*

(a) Each employee will be expected to keep his personal affairs arranged in such a way that the City of Marion will not be embarrassed.

(b) While on duty, the use of alcohol or other such substances, including medicine, that may cause the employee to be or appear to be intoxicated or may render the employee incapable of adequately or safely performing assigned duties is strictly prohibited and may be cause for immediate dismissal.

Should an employee require the use of a medicine (prescription or over-the-counter) that has side effects (dizziness, drowsiness, etc.), then the use of that medicine shall be reported to the immediate supervisor. A decision shall be made as to the employee's ability to stay on his/her regular job, carry out lighter duties or be sent home. The decision will be rendered from the aspect as to the safety of the employee, other personnel and the citizens of the City. The Department Head shall determine if the employee should work or be sent home.

If there is reasonable suspicion by someone in a supervisory capacity or regular employee as to the use of an intoxicant (alcohol, drugs, etc.) by another employee arriving to the job or while on the job with the City of Marion, then the following action may be taken.

1. The employee or employees involved shall be asked to remain at the location of the incident.
2. A City Police Officer shall be called to the location of the incident. Upon arriving, the officer shall determine the appropriate action.
3. The employee or employees may be asked to take a drug test or breathalyzer test. The test shall be at the City's expense.

Refusing to remain at the location of the incident, refusing to comply with the police officer's request; or refusing to take either of the tests shall be

grounds for a three (3) day suspension subject to automatic dismissal. During the three (3) days, a determination will be made as to the use of an intoxicant on the employee's part. If it is determined that a reasonable suspicion does exist or actual proof obtained, then the employee or employees will be dismissed.

(c) Employees who are irregular in reporting for work or are frequently tardy and report thereafter without acceptable reason therefor may be discharged or suspended by his/her immediate supervisor.

"Acceptable Reason shall be defined to mean any reason acceptable to the employee's supervisor".

PROCEDURE

The following is the policy and procedure when dealing with unexcused absences, tardiness and leaving early.

ABSENCE: Two (2) days of unexcused absences in a four week period is reason for dismissal.

Excused absences, when possible should be authorized in advance by the immediate supervisor.

TARDINESS: Twice (2) in the same week or three (3) times in a four (4) week period is reason for dismissal.

Tardiness will be considered unexcused except in emergency situations and approved by the immediate supervisor.

LEAVING EARLY: Except in emergency situations, employees will be limited to leave work early to two (2) times in a four week period.

Employees are encouraged to take care of personal business on their own time.

Tardiness will be defined as follows: Eight (8) minutes after the regular start work time of each employee as with the respective departments.

(d) Any employee may be discharged for refusing to follow job related instructions.

*These are only examples. It is not intended to be a complete list.

Section 4. - NON - DISCIPLINARY SUSPENSION

During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may, with prior approval of the City Manager suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing trial or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

Section 5. - DISMISSALS

All dismissals shall be preceded by an automatic three (3) day suspension without pay pending completion of a review done by the City Manager, supervisor and/or department head and the personnel director. If it is determined that a dismissal action is appropriate, such dismissal shall be effective at the end of the three (3) day suspension.

An employee who is suspended, demoted or dismissed because his or her work is not satisfactory shall receive at least two warnings, before disciplinary action is taken. First, a verbal warning must be given by the supervisor, and second, a written warning issued by the department head serving notice upon the employee that corrective action must be taken immediately in order to avoid disciplinary actions. All information must be documented and be filed in the employee's personnel folder.

An employee who has been discharged or suspended may appeal in accordance with procedures outlined in the by-laws of the Grievance Committee. This procedure is only open to regular City Employees.

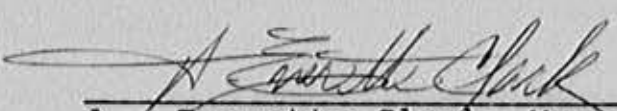
ARTICLE XI. CONFLICTING ORDINANCES REPEALED


Section 1. - All Ordinances or parts of ordinances in conflict with the provisions of this resolution are hereby repealed.

ARTICLE XII. EFFECTIVE DATE

Section 1. - This Resolution will become effective March 7, 1989.

Adopted this the 7th day of March 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/City Clerk

CENTRAL DISPATCHING: The city Council discussed the advantages of central dispatching of all emergency operations in McDowell County. The City Manager recommended that the Marion Police Department continue to do its own dispatching. He advised that all telephone calls for the Marion Police Department could be transferred immediately to the Marion Police Department.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those embers of Council present voted unanimously to proceed with central dispatching, excluding the Marion Police Department.

REPORT - SHOE SHOP - STATE STREET: Arthur C. Edwards, Fire Chief, appeared before Council concerning property located at 27 State Street owned by Mr. W. C. Hall. The Cut Rate Shoe Repair is located in the building.

He stated that several inspections had been done on the building. The owner was notified of the potential fire hazards, however, no corrective measures have been made to bring the business within the fire safety codes. He stated that several meetings have been scheduled with Mr. Hall but he has failed to attend any.

Chief Edwards recommended that Mr. Hall be invited to the next regular scheduled City Council meeting at which time he be given 30 days to correct the violation. If the corrections are not made at the end of 30 days, the business would have to be padlocked and closed to the public.

It was the general consensus of the Council that Mr. Hall be invited to the next meeting of the Council. The Fire Chief is to write Mr. Hall and invite him to the meeting.

ANIMAL CONTROL POLICY: The City Manager presented Council with animal control policies as follows:

ANIMAL CONTROL EMERGENCY PROCEDURES

INJURED ANIMALS

The following procedures will be followed regarding the pick-up and handling of injured animals within the City Limits:

The Marion Police Department upon being notified that there is an injured animal within the City will immediately respond. When the Officer arrives at the site, the Officer will determine if the owner of the animal can be located. If so, the owner will be immediately notified and the Officer will stand-by until the owner arrives and removes the animal. If not, the Officer will contact the Public Works Department or on-duty/on-call personnel and request that a truck and animal cage be brought to the site. This will be accomplished as soon as possible. The employee will remain in the truck until the Officer has the animal subdued or to assist in placing the cage in a non-risk location. The Officer will also contact the County Dog Warden and request assistance. The Officer and/or the County Dog Warden will muzzle the animal, if necessary, and place the animal in the cage and assist in loading the cage on the truck.

The animal will be transported to a local veterinarian to determine the extent of injuries. If the animal is in pain and cannot be saved, the veterinarian can put the animal to sleep. If the animal will live, the veterinarian will make the animal as comfortable as possible. The animal will be transported to the McDowell County Animal Shelter.

The City of Marion will pay the veterinarian for services rendered on all animals brought to the veterinarian under this policy.

policy established March 3, 1989.

William R. Gilsdorf, Chief of Police

Glen Sherlin, Public Works Director

**ANIMAL CONTROL
DEAD ANIMAL REMOVAL**

CITY POLICY

The following procedures will be followed regarding the removal of dead animals within the City Limits:

Any dead animals found or reported within the City Limits, during regular working hours, will be removed by the Public Works Department as soon as possible. If the animal is a pet with a collar or other means of identification of the owner, then the animal will be moved out of the street and the Marion Police Department will be notified and given the location and description of the animal. The Police Department will attempt to contact the owner. The owner, if located, will be given the choice of coming immediately and getting the animal or authorizing the City to dispose of the animal. If the owner cannot be located immediately, the Police Department will make a record of the time, date, location and description of the animal. The animal will be placed in a plastic bag and transported for burial by the Public Works Department.

Any small dead animals found or reported within the City Limits at night, on week-ends, or holidays will be removed by the Police Department as soon as possible. The same policy as listed above will be followed. The dead animal will be placed in a plastic bag, placed in the Police Car and delivered to the City Warehouse Property for disposal by the Public Works Department the next work day. The dead animal in the sealed plastic bag will be placed in the grass area, on the left side of the drive inside the fence on the City Warehouse Property. The Police Department will notify the Public Works Department the next work day that the animal was placed on the property for burial.

On -call duty personnel in the Public Works Department may be called out for pick-up and disposal of any large dead animals after work hours, on week-ends and holidays.

Policy established March 3, 1989.

J. Earl Daniels, City Manager

William R. Gilsdorf, Chief of Police

Glen Sherlin, Public Works Director

**ANIMAL CONTROL
ANIMAL BITES/MAD ANIMALS**

The following procedures will be followed regarding the pick-up and handling of MAD ANIMALS or animals reported to have bitten some individual and are within the City Limits:

The Marion Police Department upon being notified that someone has been bitten or that there is a MAD ANIMAL running at large, will respond immediately. The Police Department will contact the County Dog Warden and request assistance. The investigating Officer will contact the Public Works Department or on-call duty personnel and request that a truck and animal cage be brought to the site. This will be accomplished as soon as possible. The employee will remain in the truck until the officer has the animal subdued, or to assist in placing the cage in a non-risk location. Every effort will be made to capture the animal without jeopardizing the safety of anyone present. If that cannot be accomplished, the animal should be tranquilized, if at all possible.

If necessary, the animal may have to be destroyed. That decision will be made by the Police Officer in charge.

If the animal can be captured safely, the animal will be turned over to the McDowell County Dog Warden. Any destroyed animal will also be turned over to the McDowell County Dog Warden. In either case, the animal will be examined by a veterinarian.

In the event the Dog Warden is not available, the Police Officer will see that the animal is examined by a veterinarian.

Policy established March 3, 1989.

J. Earl Daniels, City Manager

William R. Gilsdorf, Chief of Police

Glen Sherlin, Public Works Director

The City Manager informed the Council that the Chief of Police had found it necessary on one occasion to transport an injured animal to a veterinarian. It was necessary to have the animal put to sleep because of severe injuries. He stated that this did not happen often, however, there was a cost involved for the services of the veterinarian. Discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of the Council present voted unanimously to authorize the Police Department to pay the cost of veterinarian charges to have injured animals put to sleep when necessary.

PROPOSED WIDENING OF NORTH LOGAN STREET: The City Manager reported that the State has marked off the necessary area to be acquired for the widening of North Logan Street near Hwy. 70 West. The owner of the property is being contacted. The City Manager will report back at a later meeting.

ADJOURNMENT: Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 21, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, March 21, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Angus Stronach, John Cross, Steve Little and Joe Tyler. Councilman Robert Ayers arrived at 8:10 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Alvin Callahan, Building Inspector; Tom Milligan, Assistant Fire Chief; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Mr. Woody Hartin, North Carolina Department of Natural Resources and Community Development; Mr. Tony Lynch, President, Downtown Business Association; Mrs. Lee Lynch, Downtown Development Director; Mr. & Mrs. David Blanton; Mr. Matt Smith, Smith Furniture; Mr. Bill Griffith, Griffith Jewelry; Mr. Ted Davis, Johnson's Book Store; Mrs. Bobbie Young, Nova Office Supply; Mr. Rick Moore, Village Jewelry; Mr. Pierce Bradley, Bradley Lumber Company; and Mr. David

Bradley, Bradley Lumber Company.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Cross, those members of Council present voted unanimously to accept the minutes of the March 7, 1989 meeting.

CABLEVISION - COMPLAINT - NO SERVICE - HIGHLAND DRIVE: The City Manager stated that he had received a complaint from a resident on Highland Drive stating that they did not have cable service available to them. The resident stated that since the area would be annexed into the City as of June 30, 1989, the residents in this area felt that they should have cable services.

The City Manager stated that he had been in contact with Mr. Wayne Ollis of TCI Cablevision who told him that only a portion of the street was not served by cable at this time. He stated that they were planning to build the cable line to this area as soon as possible.

Mayor Clark asked if all homes inside the City Limits were being served at this time. The City Manager stated that it was his understanding that cable was available to all homes inside the City Limits that wanted it. He stated that when an annexation was completed, that TCI Cablevision, Contel and Duke Power were given maps of the area annexed.

Mayor Clark stated that he felt that no action needed to be taken on the matter since Madison Cablevision had stated that they were working on the line.

DRAINAGE PROBLEM - BRAND REX - CLAY STREET: The City Manager stated that he had received a complaint about a drainage problem at Brand Rex. He stated that a drainage pipe which carried water from a storm drain on State Street to an area beside and to the rear of Brand Rex was causing erosion problems.

He stated that DOT had been contacted, however, they reported they had not maintained any drainage pipes on the property. The City Manager stated that no right-of-ways, easements, or agreements to maintain the drainage pipes could be found.

A video recording of the problem was presented to Council for their review.

The City Manager stated that he would like to hold action on the matter until later in the meeting. Council was in agreement.

HUNT STREET - EAST MARION - REPAIRS: The City Manager stated that since the last meeting (Ref. Minutes of March 7, 1989), the Public Works Department had backfilled and holes in the street and made provisions to handle the drainage water.

The City Manager stated that at this time, the City has no obligation to maintain the street unless one of the following situations has occurred: (1) the City agrees to maintain the street; (2) condemnation of the area in question; or (3) accepting an offer of dedication of the street for public use.

The City Manager stated that the Street Committee would like to recommend that no additional work be done on Hunt Street until it is a dedicated street. He stated that the street was owned by Marion Manufacturing Company.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to accept the recommendation of the Street Committee and to authorize the City Manager to send a letter to Marion Manufacturing regarding the process to have the street dedicated.

RIDLEY STREET - IMPROVEMENTS: The City Manager stated that since the last meeting of Council, letters had been sent to property owners on Ridley Street concerning the cost of the proposed improvements as requested by the petition presented to Council at an earlier meeting.

The City Manager stated that one property owner had stopped by his office and one letter had been received from another property owner. He stated that the persons were not against the improvements, however, they did not want to pay for the improvements. He stated that he had not received any response from the other property owners but that at least one property owner had not paid property taxes since the area was annexed.

The City Manager stated that the Street Committee would like to recommend that the City proceed with Option #1 (Ref. Minutes of March 7, 1989) with the City assuming 25% of the cost of the improvements, with a requirement that the street have a minimum width of twenty (20) feet. The Committee would also like to recommend that the property owners not be assessed. The City Manager stated that the intention was that the persons who wished to develop the property assume the

remaining 75% of the cost of improvements.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to accept the recommendation of the Street Committee.

SHOE SHOP - STATE STREET: The City Manager stated that the Fire Chief and Building Inspector had been in contact with Mr. Hall at Cut Rate Shoe Repair on State Street several times regarding cleaning up of the building.

The City Manager stated that the City Attorney was to have researched the matter regarding the legal matters the City could take to have the problem resolved, however, the attorney was unable to complete the research before the meeting.

The City Manager stated that at the last meeting, Council had requested that Mr. Hall be present at the meeting. Mr. Hall had left word that he would not be at the meeting, but that he would get the work done.

Councilman Stronach stated that he felt the matter should be held until the attorney had completed the research.

Councilman Little requested that when the City Manager had received word from the attorney, to inform Council of the procedures so that they could move on the problem. He stated that he was concerned about the potential fire hazard.

TAX COLLECTOR - MEMORANDUM - STOP PAYMENT ON CHECK: The City Manager presented a memorandum from Claudia Shehan, Tax Collector concerning a Stop Payment Order on a check she received for payment of property taxes. The memorandum stated that the check was a considerable sum and that she had issued a paid receipt for the check. She asked for guidance from Council regarding which legal way collection on the check could be handled.

The City Manager stated that the check had been deposited and that the bank had advised the City that their checking account was overdrawn due to the Stop Order on the check. He stated that fortunately, a CD had matured and the problem was taken care of without the City losing any money.

The City Manager stated that the Tax Collector had three options regarding collection for the check as follows:

1. Do nothing and wait until the taxes were paid.
2. To take Civil Action against the property owner.
3. To attach the bank accounts of the property owner until the check was paid.

Councilman Little asked if the property owner had notified the City that they had placed a Stop Payment Order on the check. The City Manager stated that the only notification had been from the bank when the account became overdrawn. He stated that several calls had been made to the individual by both himself and the Tax Collector, however, they had not been able to talk with the individual.

Councilman Cross asked if anyone present would like to address the matter.

Mr. Pierce Bradley, of Bradley Lumber Company stated that he would like to address the problem. He stated that they had a similar problem with the County, however, that problem had been resolved. He stated that he had been expecting a large sum of money to come into his business, but he had been hit with a bankruptcy instead, so the money was not available. He stated that the check was not legal tender and that the simple solution to the problem would be to mark the account not paid in the tax records.

The City Manager stated that the concern was that a paid receipt for the account had been issued. He stated that the check had been accepted in good faith and that the Tax Collector was responsible for the funds since she had accepted the check.

Councilman Cross asked when the matter could be resolved. Mr. Bradley stated that he did not know a definite date to solve the problem, but it would be taken care of.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously that no special action or treatment be taken to handle this problem.

The City Manager stated that he would like to request that the paid receipt be returned to the Tax Collector. The Council and Mr. Bradley agreed that the

receipt should be returned.

DOWNTOWN TAX DISTRICT - MRS. LEE LYNCH: Mr. Tony Lynch, President of the Downtown Business Association appeared before Council concerning the proposal of a Downtown Tax District.

Mr. Lynch stated that at this time, through circulation of a petition to implement a tax district in the downtown, two-thirds support of the property owners had been received. He stated that they had contacted only the property owners who lived in McDowell County. He stated that the association felt that the absentee owners were not concerned with what happened in the downtown area.

Mr. Lynch presented a packet of information to the Council which contained a copy of the petition, a proposal stating that a fifteen cent per one-hundred valuation tax be imposed on downtown property owners, a map of the area, a resolution for Council to adopt at a later date, and a copy of the proposed budget.

Mayor Clark asked how much revenue would be received from the additional tax. He was informed that it would be approximately \$16,700.00.

Mr. Lynch stated that the Downtown Business would like to contract with the City to collect the taxes and then turn the money over to the Downtown to disburse.

Mr. Lynch stated that most of the property owners were concerned about where the money would go if the Downtown Business Association was abolished. Mayor Clark stated that a statue addressed that the money had to be turned over to use in the downtown even if the association was dissolved.

Councilman Little stated that he would like to suggest a meeting in May to have the Public Hearing. The City Manager stated that once the Public Hearing was held and the tax district was accepted, it became effective on July 1 of the next fiscal year, in other words, if the process began in May of this year, the district would be in place on July 1, 1989.

Mr. Matt Smith appeared before Council concerning the proposed tax district. He stated that he was actually neutral with regards to the tax district. He stated that he was neither for nor against the district. He did ask several questions of Council.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to set the Public Hearing for the Downtown Tax District on Tuesday, May 16, 1989.

ANNEXATION FEASIBILITY STUDY - 5 LANE AREA: Mr. Woody Hartin, North Carolina Department of Natural Resources and Community Development and Mrs. Lovina Smith, Zoning Administrator presented the Annexation Feasibility Study of the 5-Lane Area to Council. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to approve the Annexation Feasibility Study and allow it to be available for public inspection.

STREETS - GENERAL POLICY - DRAINAGE - MINIMUM STREET WIDTHS:

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following street policy:

GENERAL POLICY ON CITY STREETS

DRAINAGE: The City of Marion will not be responsible for any run off of water after it leaves the street right of way unless there is an executed agreement by and between the property owner(s) and the City of Marion stipulating specifically the responsibility of the City.

WIDTH OF TRAVEL LANES: The minimum width for a travel lane for all city streets shall be ten (10') feet.

WIDTH OF PARKING SPACES: The minimum width for parking spaces shall be seven (7') feet.

ONE WAY STREETS
minimum widths

One travel
Lane

Parking on
One side

Parking on
Two sides

10 feet	17 feet	24 feet
Two travel Lanes	Parking on One side	Parking on Two sides
20 feet	27 feet	34 feet

TWO WAY STREETS
minimum widths

Two travel Lanes	Parking on One side	Parking on Two sides
20 feet	27 feet	34 feet

TRAFFIC AND PARKING ORDINANCE - NO PARKING ZONE - WEST HENDERSON STREET: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to adopt the following Ordinance:

TRAFFIC AND PARKING ORDINANCE
NO-PARKING ZONE - WEST HENDERSON STREET

BE IT ORDAINED by the City Council of the City of Marion, North Carolina, as follows:

Section 1. When signs are erected or curbs are painted yellow giving notice thereof, no person shall park a vehicle on any of the streets or portions of streets described below:

A. Henderson Street, West - on the south side of West Henderson Street from a point beginning at the intersection of the center of Logan Street and the south side of West Henderson Street and running for a distance of one hundred sixty seven feet (167') in an easterly direction.

Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 21st day of March, 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Clerk

Ordinance Number 0-89-21-03-01

1989 TAXES - SET DATE FOR ADVERTISEMENT - RECOMMEND MAY 10, 1989: The City Manager stated that the Tax Collector would like permission from Council to advertise for unpaid property taxes on May 9, 1989.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to authorize the Tax Collector to advertise the unpaid property taxes on May 9, 1989.

REPORTS:

1. SUPERVISOR OF ELECTIONS - RESIDENCY: The City Manager stated that it had been reported to him that the Supervisor of Elections had moved outside the City Limits. He stated that he had called the State Board of Elections to ask if she could continue to serve had been referred to the Office of the Attorney General and had been asked to submit a formal request for a reply.

2. MAYOR CLARK - COMMENTS - DARK PARKING AREAS: Mayor Clark stated that a kidnapping had been reported in the Ingles Parking Lot and that he had noticed

that area and other parking lots for stores open all night had dimly lit parking areas. He asked if the Police Chief could check into the matter.

3. REPORT - PUBLIC WORKS DEPARTMENT: The City Manager presented a memorandum from the Public Works Department concerning the progress on the work they had been doing. He stated that as the memorandum acknowledged, the curb and gutter work would have to be contracted out due to the amount to be done and not having the personnel to do the work.

4. COMMENTS - COUNCILMAN AYERS: Councilman Ayers stated that he had been contacted by a School Board Member concerning moving of fire hydrants at the Pleasant Gardens School. He asked that someone in the Public Works Department check into the matter.


Councilman Ayers stated that he would like for someone to check into a large opening of a storm drain at the intersection of Broad and Willow Streets. He stated that a child could get down into the drain.

Councilman Little stated that there was a similar situation on Sinclair Avenue.

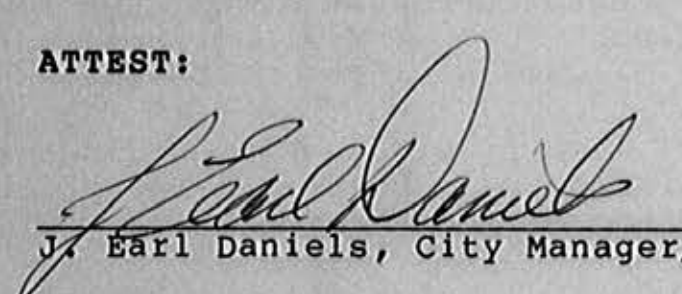
5. REPORT - WOOTEN COMPANY: The City Manager stated that representatives from the Wooten Company had been at City Hall collecting data for their site analysis.

6. COUNCILMAN LITTLE - COMMENTS: Councilman Little stated that he would like to comment on the parking lot signs placed in the City parking areas. He stated that he thought that they made the areas more attractive and made the citizens aware of the little things the City did for them.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

April 4, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, April 4, 1989 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Angus Stronach, Joe Tyler, and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Aaron Adams, Street Superintendent; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M.; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. David Tilson, Tilson Sanitation.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the March 21, 1989 meeting.

TAX REFUND - LISTING ERROR - MS. RUTH M. HOLLIFIELD: The City Manager presented a memorandum from Claudia Shehan, Tax Collector concerning a refund for vehicles listed in error.

The memorandum stated that Ms. Hollifield resides in Nebo, however, her vehicles were listed with her rental property on 101 North Madison Street. The amount to be refunded is \$43.78.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to refund Ms. Ruth Hollifield \$43.78 for vehicles listed in error.

ANNEXATION - 5 - LANE - GARBAGE PICK-UP: Mr. David Tilson of Tilson Sanitation appeared before Council concerning the garbage customers his business serves on the 5 - Lane. He stated that he would like to get some information as to what happened when the area was annexed.

The City Manager stated that there were statutory requirements that stated when an

annexation was approved, if the area was being provided service by a private garbage hauler, the City must negotiate with the hauler in one of the following ways:

1. Pay the hauler based on what the City Pick-Up Policies are at the time of annexation.
2. Negotiate a settlement with the hauler for the loss of business with the annexation and the City assumes the pick-up service.

Mr. Tilson asked to meet with the City Manager at a later date.

SHOE SHOP - STATE STREET - REPORT: The City Manager stated that the Fire Chief checked the business regularly and had reported that the roof on the building is being replaced, and it appeared that the requirements would be met.

AREA LIGHTING - COMMERCIAL PARKING LOTS: The Police Chief stated that the department was in the process of conducting a survey of the various parking lots in the city. He stated that at this time, eight areas had been identified as either having not enough light or a type light that they would like to see changed.

The Police Chief stated that he had been in contact with a firm who was to provide him with standards as to what type of light should be required and the amount of light to be in the area. He stated that he was also hoping to borrow a device to measure the amount of light in the various parking areas. He stated that he would have more information available at the next meeting of Council.

Councilman Little asked if the liability to increase lighting would be the City or business owner's responsibility.

Mayor Clark stated that if a survey was completed which pointed out the problems and liabilities to the business owners, they should be more than glad to pay for the lighting.

COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he would like to know the progress on the new street lights that had been proposed for the downtown.

The City Manager stated that work was to begin May 1, 1989 and should be complete by November 1, 1989. He advised that it may be necessary to contract a part of the work.

PARKING LOT - ORDINANCE - RESERVED PARKING LOT: Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to adopt the following ordinance:

RESERVED PARKING LOT

BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:


Section 1. The below described parking lot is reserved for use by City Officials and City Employees only.

Beginning at the south-east corner of the intersection of Brown Drive and Logan Street thence in an easterly direction parallel with and adjacent to the south side of Brown Drive a distance of 151'; thence 57' in a southerly direction parallel with Logan Street; thence 70' in an easterly direction parallel with Brown Drive; thence 58' in a northerly direction parallel with Logan Street; thence 72' in a westerly direction parallel with and adjacent to the south side of Brown Drive.


Section 2. When a sign is erected, giving notice thereof, any unauthorized vehicle parked in this reserved lot shall be towed at the owner's expense.

Section 3. All ordinances or sections of ordinances in conflict with this ordinance are hereby repealed.

ADOPTED this the 4th day of April, 1989.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

PLANNING/ZONING BOARD - APPOINT ONE MEMBER: The City Manager presented a memorandum from Mrs. Lovina Smith stating that Mrs. Bobbie Young had resigned from the Planning/Zoning Board. The memorandum stated that the term would have expired on January 31, 1991 and that a replacement needed to be made.

The general consensus of Council was to hold the appointment until the next meeting.

BUDGET - DISCUSSION - PRELIMINARY: The City Manager stated that it was time to prepare the annual budget again. He stated that he would like for the members of Council to be thinking of any special projects that they had noticed so that money could be appropriated for these items.

He stated that he would like to have their input as to any suggestions for the budget.

A short discussion followed.

APPOINTMENT - JUNK YARD COMMITTEE: The City Manager stated that he had been sent a copy of a memorandum to the County Commissioners concerning a proposed "Junk Yard Committee". The memorandum stated that the committee would be made up of representatives from the various organizations in the County and would like to have a Council representative.

Councilman Stronach volunteered to represent the City on the "Junk Yard Committee".

RESOLUTION - HIGHWAY STUDY COMMITTEE: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

R E S O L U T I O N

WHEREAS, the NC Highway Study Commission has, after exhaustive study and investigation, developed a plan for major highway improvements in the state; and

WHEREAS, the plan provides for establishment of a \$8.6 billion, Highway Trust Fund to finance the proposed highway construction over a 12-year period; and

WHEREAS, the plan includes, as a priority project, the four-laning of US-221 from Linville to the South Carolina line and allows for four-laning of other major highways; and

WHEREAS, the recommendation also includes other intra-state highways, the paving of 10,000 miles of medium-use unpaved roads by the year 2000 and paves all unpaved roads currently receiving state maintenance by 2004; and

WHEREAS, the City of Marion will receive additional Powell Bill Funds for maintenance of streets on the City Street System; and


WHEREAS, highway improvements will promote overall economic development and tourism.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Marion, endorses the recommendations of the NC Highway Study Commission and requests that the NC General Assembly adopt the recommendation as presented.

BE IT FURTHER RESOLVED that the City Council requests that the NC General Assembly develop a package of funding sources adequate for construction of all highways recommended in the commission plan.

Adopted this the 4th day of April 1989.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/City Clerk

R-89-04-04-01

REPORTS:

1. **REPAIR WORK - POTHOLES:** The City Manager stated that the asphalt plants had finally opened up and that work on the numerous potholes in the City would begin. He stated that at this time, the plans were to work on the potholes on Wednesdays.