

**2. OPEN STORM DRAINS:** The City Manager stated that the Street Department had repaired the open storm drain on Broad Street and that they were working on the drain on Sinclair Avenue. He stated that the Street Department had been instructed to put bars on any areas where the storm drains had openings larger than six inches.

**3. STATE STREET - PROBLEMS:** The City Manager stated that he had received several calls from residents on State Street concerning problems that they were having. He stated that the first call concerned putting gravel in a driveway and when the crews took the gravel to the location, the resident refused to allow them to put the gravel in and requested that they take out the gravel there and sow grass. Another call came from a resident who was experiencing problems with trash pick-up and he did not know the procedures to follow and had promised to dump the clippings on Rutherford Road if they were not picked up. Another resident called and reported that his garbage had not been picked up in six months. He called again the following day and stated that it had not been picked up in a week. The employee who regularly runs the garbage route was absent and the resident leaves his garbage in various places. The person filling in on the route did not know that the garbage can moved around and he did not find it. Another problem was with straw that had moved during the rains and a lady wanted it cleaned from in front of her residence. The City Manager stated that all of these problems were taken care of at this time.

**4. COMMUNITY BUILDING - LACK OF UTENSILS:** The City Manager stated that he had received a complaint that the Community Building did not have enough utensils to serve two hundred persons, (the building's seating capacity). He stated that the rules stated that persons renting the building were welcome to use the utensils there, but the City would not furnish any additional utensils. He stated that the City could do one of the following:

1. Furnish the utensils and inventory the stock every day.
2. Use the utensils there and provide extra utensils when needed.
3. Use paper and plastic utensils.

The City Manager stated that the ladies in the office were instructed to make a verbal point to inventory the utensils in the building before using it to make sure that persons using the facility had what they needed.

A short discussion followed.

Council agreed to have in stock at the warehouse plastic packets containing forks, knives, spoons and napkins; paper plates or platters and paper tablecloths. These items would be available at the City warehouse and could be purchased by persons renting the Community Building at cost plus a small percentage.

**5. DOG ORDINANCE:** The City Manager stated that the City was having problems with persons who had their animals picked up in the cage, went to pick them up at the pound, brought them home and turned them loose again. He stated that in several instances, this had happened repeatedly. He stated that it had been suggested that the fees to retrieve the animals from the pound be increased each time the animal is retrieved. He stated that the County would have to increase the amounts since the pound was operated by the County. A short discussion followed, however, no action was taken.

**6. ANNUAL DEPARTMENT OF TRANSPORTATION T.I.P. MEETING:** The City Manager stated that the annual D.O.T. meeting to discuss T.I.P. projects would be held on Tuesday May 16, 1989 in Hickory. He asked if anyone was interested in going to please let him know.

**7. PROBLEM - STREET DRAINS - BRAND REX PROPERTY:** The Mayor stated that he had received a call from the owner of the Brand Rex property concerning the drainage problem. (Ref. Minutes of March 21, 1989). He stated that he would like for the Street Committee to look at the problem. A meeting was scheduled for Friday morning, April 7, 1989 at 9:00 A.M.

**8. FIRE HYDRANTS - P. G. SCHOOL:** Councilman Ayers asked if someone had talked with the P.G. Firemen concerning relocating fire hydrants at P.G. School. He was informed that the Public Works Director had met with the firemen and that Council needed to decide if the City would pay for the cost to move the hydrants or if someone else should be billed. A short discussion followed.

Council agreed to charge the School Board for the following costs to move the fire hydrants: time, equipment, and materials.

**9. SOAP BOX TYPE DERBY:** The City Manager informed the City Council that Downtown Development Director Lee Lynch is scheduling a Soap Box Type Derby on Saturday, May 13, 1989. The homemade carts will race down West Court Street from Main toward Academy. He advised that the streets to be blocked off would be Logan Street at Henderson; Logan Street at Fort; West Court Street at Main and West Court Street at Academy.


**EXECUTIVE SESSION - ON-GOING CRIMINAL INVESTIGATION BY DEPARTMENT:** Upon a motion



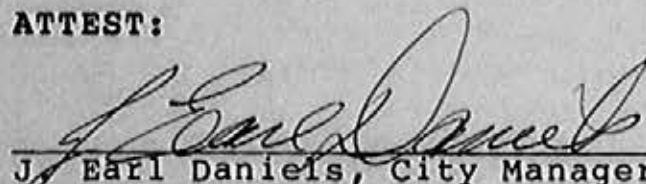
by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to go into Executive Session.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to reconvene in 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

April 18, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, April 18, 1989 at 7:00 P.M. in the City Council Chamber.

**BOARD MEMBERS PRESENT:** Mayor Pro-Tem Robert Ayers, Councilmen Angus Stronach, Steve Little, and John Cross.

**BOARD MEMBERS ABSENT:** Mayor A. Everette Clark and Councilman Joe Tyler.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary, Bill Gilsdorf, Chief of Police; Robert Parker, Personnel Director; Glen Sherlin, Public Works Director; and Lydia Carrington, News Reporter, The McDowell News.

**GUESTS:** Mr. David Tilson, Tilson Sanitation; Mr. Gene Cable, Tilson Sanitation; Mr. Tom Winkler, Garbage Disposal Service; Mr. Jim Kalkwarf, Garbage Disposal Service; Mr. Joe Compton, First Union National Bank; and Ms. Sylvia Scott, Chamber of Commerce Networking Committee.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to approve the minutes of the April 4, 1989 meeting.

**ANNEXATION PETITION - REQUESTING ANNEXATION OF PROPERTY OF SOUTH SIDE OF HWY 70 EAST OF YANCEY ROAD:** Mr. Joe Compton representing First Union National Bank and trustee of J. W. Brooks appeared before Council concerning a petition for annexation. Mr. Compton was present to answer any questions of Council concerning the petition.

The City Manager stated that there was a problem with the petition. He stated that when the survey was completed, it had been noted that a small portion of the property was unclaimed. He stated that Mr. Compton thought the matter could be solved by Burlington Industries quick-claiming the property.

The City Manager stated that the resolutions and necessary steps to annex the property could be adopted and that the process could be stopped any time up to the Public Hearing. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to accept the petition for annexation. Upon a motion by Councilman Little, seconded by Councilman Stronach, 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 RISBERTH BROOKS AND FIRST UNION NATIONAL BANK

WHEREAS, a petition requesting annexation of an area described in said petition has been received on April 18, 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 proceedings 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 18th day of April, 1989.

Robert Ayers, Mayor Pro-Tem

**ATTEST:**

  
J. Earl Daniels, City Manager/Clerk

R-89-04-18-01

**CERTIFICATE OF SUFFICIENCY:** Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to accept the following Certificate of Sufficiency:

**RESOLUTION SETTING DATE OF PUBLIC HEARING:** Upon a motion by Councilman Cross, seconded by Councilman Little, 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 o'clock P.M., on the 16th day of May, 1989.

Section 2. The area proposed for annexation is described as follows:

**BEGINNING** on a railroad spike set at the south edge of U.S. 70 in the center of a railroad spur, and in the Clinchfield Annexation line for the City of Marion, N.C., said railroad spike being located N 58 52'36" E 5, 961.54' from NCGS Monument "Marion", said NCGS Monument having a northern coordinate of 717,393.490, and an easting coordinate of 1,106,675.900 (NAD 27), and runs thence with the south side of U.S. 70 and the Clinchfield Annexation lines, the following seven (7) bearings and distances:

N 61 58'47" E 228.68'; N 60 05'35" E 119.74'; N 56 53' 04" E 124.36'; N 52 24'35" E 124.88'; N 50 24'55" E 120.65'; N 48 32'57" E 121.50'; N 47 17'40" E 93.17' to a railroad spike set in the south edge of U.S. 70, said railroad spike being located N 01 26'36" E 125.47' from a concrete monument set for control on a previous city limits survey, said monument having a northing coordinate of 720,881.42 and an easting coordinate of 1,112,537.44'.

Thence leaving the south side of U.S. 70 and running with the line of David Huskins, S 54 47'41" E (passing an existing iron pin at 38.26') a total distance of 24.11' to an iron pin set on a previous survey in the center of the main tract of Southern Railway, thence with said main tract, S 46 30'03" W 420.11; to a point where the main tract intersects a spur track leading to the old Burlington Industries Clinchfield Plant, thence continuing with said main tract of Southern Railway, S 46 34'30" W 436.60' to an existing iron pin in the centerline of said track and in the Southern right-of-way for Yancey Street, said iron pin being a corner of the present City Limits of Marion, North Carolina thence with the southern right-of-way for Yancey Street and the present City Limit lines for Marion, North Carolina, the following fourteen (14) bearings and distances.

N 51 28'09" W 13.48'; N 55 25'39" W 13.40'; N 58 23'39" W 13.14;; N 61 02'09"



W 20.97'; N 66 16'45" W 20.90'; N 69 09'51" W 21.80'; N 71 58'45" W 22.32'; N 73 54'33" W 28.99'; N 73 23'39" W 34.44'; N 71 42'03" W 45.12'; N 70 18'03" W 44.43'; N 70 04'51" W 45.73'; N 74 24'21" W 56.48'; N 70 34' 15" W 73.57' to an iron pin located at the southern margin of the pavement for U.S. 70 East and in the annexation line for the Clinchfield Annexation to the City of Marion, thence with said line and the southern margin of U.S. 70, N 59 55'49" E 101.91' to the BEGINNING, containing 5.89 acres by DMD.

All bearings are from N.C. grid North and all distances are horizontal ground distances.

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 18th day of April, 1989.

Robert Ayers, Mayor Pro-Tem

ATTEST:

J. Earl Daniels, City Manager/Clerk

R-89-04-18-02

CERTIFICATION OF LETTERS MAILED TO PROPERTY OWNERS - DOWNTOWN MUNICIPAL SERVICE DISTRICT: The City Manager presented the following Certification of Letters mailed to property owners in the proposed area for the Downtown Municipal Service District:

I, LuAnn A. Ellis hereby certify that I prepared the notices of Public Hearing and maps and stuffed the envelopes for the property owners of the property contained in the proposed Municipal Services District for the City of Marion.

LuAnn A. Ellis

I, Robert N. Parker hereby certify that I mailed the notices of Public Hearing and maps to the property owners of the property contained in the proposed Municipal Services District for the City of Marion at 12:30 P.M. on April 13, 1989. Said notices to be mailed no later than April 14, 1989.

Robert N. Parker

I hereby certify that proper notice has been given to property owners in the proposed Downtown Municipal Service District. The notification was mailed on this 13th day of April, 1989. This certification is conclusive in the absence of fraud and conforms to the requirements of North Carolina General Statute 160A-537.

J. Earl Daniels, City Manager/Clerk

DEPARTMENT OF TRANSPORTATION - RESOLUTION - MUNICIPAL AGREEMENT - RESPONSIBILITY OF STREET & HIGHWAY SYSTEMS:

RESOLUTION PASSED BY  
THE CITY COUNCIL OF THE CITY  
OF MARION, NORTH CAROLINA

The following resolution was offered by Councilman Stronach, and seconded by Councilman Cross and upon being put to a vote was carried unanimously on the 18th day of April, 1989.

WHEREAS, the City of Marion and the North Carolina Department of Transportation have previously entered into an Agreement on street and highway system responsibilities in the Marion urban area pursuant to North Carolina General Statutes 136-66.1 and 136-66.2, said Agreement being dated November 12, 1965, and



WHEREAS, North Carolina General Statutes 136-66.2 (d) provides that said Agreement on Street and highway system responsibilities may be revised if said revision is mutually acceptable to both the Department of Transportation and Municipality; and

WHEREAS, it has become necessary to revise the said Agreement dated November 12, 1965, between the Department of Transportation and the City of Marion due to recent annexations by the Municipality and revisions in the Thoroughfare Plan; and

WHEREAS, a revised Agreement numbered 3-15-89 between the City of Marion and the Department of Transportation has been reduced to writing as to which streets and highways within the revised Corporate Limits of the City of Marion shall be the responsibility of the Department of Transportation pursuant to General Statutes 136-66.1 and 136-66.2.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARION, NORTH CAROLINA:

That the revised Agreement entitled "MUNICIPAL AGREEMENT ON STREET AND HIGHWAY SYSTEM RESPONSIBILITIES" numbered 3-15-89 between the Department of Transportation and the City of Marion, North Carolina be, and the same is hereby approved by the City Council of the City of Marion and the Mayor and the City Clerk are authorized and directed to execute and deliver said Agreement.

I, J. Earl Daniels, Clerk of the City of Marion, North Carolina do hereby certify that the above is a true and correct copy of excerpts from the Minutes of the City Council of said City.

WITNESS my hand and the official seal of the City of Marion this the 18th day of April, 1989.

ATTEST

(Seal)

\_\_\_\_\_  
City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF MARION

MUNICIPAL AGREEMENT  
ON STREET AND HIGHWAY  
SYSTEM RESPONSIBILITIES  
DRAFT NO. 3-15-89

THIS AGREEMENT; made and entered into this the 18th day of April, 1989 between the North Carolina Department of Transportation, a State agency hereinafter referred to as the Department, and the City of Marion, a municipal corporation hereinafter referred to as the City:

THAT WHEREAS, the City and the Department, in accordance with General Statutes, have entered into an Agreement dated February 10, 1966 specifying which of the existing and proposed streets and highways included in the Thoroughfare Plan will be a part of the State Highway System and which streets will be a part of the Municipal Street System, and

WHEREAS, the City and the Department have by mutual agreement update the previous thoroughfare plan to reflect changing growth patterns, and

WHEREAS, the updated plan is significantly different from the Plan on which the Systems Responsibility Agreement is based, and therefore, present and future system responsibilities based on the updated plan are not properly covered in the existing Systems Responsibility Agreement, it is deemed necessary and appropriate to execute a new Agreement to conform to the updated plan.

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. That the City shall become responsible for the following streets and portions of streets: (1) Cross Street (SR 1204) between Carson Street and Gladden Street, (2) Webb Street (SR 1202) between Roane Street and Carson Street, (3) Roane Street (SR 1201) between Webb Street and Hoyle Street, (4) Hoyle Street (SR 1201) between Roane Street and Tate Street and (5) SR 1294 between Henderson Street and end of State Maintenance. Assumption of responsibility for these streets by the City shall commence following approval of the Agreement by the Board of Transportation and administrative changes necessary to remove the streets from the State Highway System.



2. That the Department shall remain responsible for SR 1706 (Georgia Avenue) between US 221-NC 226 and SR 1708 so long as any portion thereof remains outside the Corporate Limits.

3. That the Department shall become responsible for South Logan Street between Court Street and Henderson Street. Assumption of responsibility for this portion of Logan Street by the Department shall commence following approval of the Agreement by the Board of Transportation and administrative changes necessary to add the portion of street to the State Highway System.

4. That the Department shall remain responsible for SR 1504 (Victory Drive) between SR 1500 and Dead-End so long as any portion thereof remains outside the Corporate Limits.

5. That the Department shall remain responsible for SR 1500 between SR 1501 and SR 1510 so long as any portion thereof remains outside the Corporate Limits and so long as any portion of SR 1507 remains outside the Corporate Limits.

6. That the Department shall remain responsible for Cross Street between Tate Street and Gladden Street and Webb Street between Gladden Street and Roane Street until such time as Gladden Street and said portion of Webb Street are improved to minimum width standards for eligibility for Powell Bill Funds.

7. That any time the Corporate Limits are altered in such a manner as to leave any portion or portions of a State maintained road or roads remaining outside the new Corporate Limits, and these roads are not shown as a Department responsibility on the attached System Responsibilities Plan, Map No. 1 and are not particularized in any of the preceding items, the Department and the City shall execute a supplemental agreement covering responsibilities for these roads. That it shall be the responsibility of the City to notify the Department of any effective annexation within a reasonable time prior to July 1 of any year in order for the City to be eligible for funds appropriated out of the Stated Highway Fund for the forthcoming year as provided for in North Carolina General Statutes 136.41.1 for those streets included wholly within the area annexed that were previously on the State Highway System.

8. That the proposed ultimate respective responsibilities after the transition from the existing street and highway system to the system shown on the adopted Thoroughfare Plan are as indicated on the attached System Responsibilities Plan entitled "Ultimate State-Municipal System for Streets and Highways in Marion Urban Area, Map No. 1. That the foregoing agreement as set out in Item 1 through 7 are for the purpose of effecting the transition in an orderly manner. That the Department's and City's immediate responsibilities after the mutual adoption of this Agreement shall be as delineated on the attached Map No. 2.

9. As directed by General Statutes 136-66.1, the Department shall be responsible for the maintenance, repair, improvement, widening, construction, and reconstruction of all streets and highways designated as Department responsibilities on the aforementioned System Responsibilities Plan as same become part of the State Highway System as set out hereinbefore. That the City shall be responsible for the maintenance, construction, reconstruction and right-of-way acquisition of all streets inside the Corporate Limits of the City not designated a Department responsibility and not particularized in the aforementioned items.

10. That the City shall exercise whatever legal powers available to it to protect rights-of-way necessary to accommodate improvements to existing State Maintained streets and for proposed new streets inside the Corporate Limits which are shown on Map No. 1 as ultimate State responsibility.

11. That either the municipality or Department may propose changes in these systems responsibilities at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department and the Municipality Governing Body.

IN WITNESS WHEREOF, this agreement has been executed this the 18th day of April, 1989 in triplicate, on the part of the Department and the city of Marion by authority duly given, as evidenced by attached certified copy of municipal resolution, authorizing the same on the 18th day of April, 1989 and by attached certified copy of the resolution by the Board authorizing the same on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

CITY OF MARION

\_\_\_\_\_  
City Clerk

BY \_\_\_\_\_  
Mayor Pro-Tem

ADD EXECUTIVE SESSION TO AGENDA: The City Manager stated that an Executive



Session to discuss a possible legal matter needed to be added to the Agenda.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to add an Executive Session to discuss a possible legal matter to the Agenda.

**SANITATION DEPARTMENT - RESIDENTIAL COLLECTION:** The City Manager stated that as of June 30, 1989, the Clinchfield area and the Five Lane would come into the City Limits. With these additions, he stated that the residential garbage pick-ups would increase from 1,800 to 2,100.

The City Manager stated that according to the statutes regulating annexations and commercial pick-ups, certain conditions had to be met:

1. Buy interest of the private hauler out in a lump sum (based on twelve times an average of three months income prior to the annexation effective date).
2. Contract with the private hauler for a period of two years with the City taking over the business after the period is over.
3. Contract one year with the private hauler and then cancel the contract. The City would have to pay the private hauler in lump sum for the six months following the cancellation of the contract.

A discussion followed. The City Manager stated that in addition to the requirements of the annexation, the City would have three options concerning commercial pick-up service for the future:

1. Continue the service as it is now, negotiating with the private haulers to fulfill the requirements of the annexation, and to allow for funds in the budget for the purchase of new equipment if the City wanted to continue commercial pick-up.
2. For the City to contract with the haulers to pick-up the commercial businesses and the City discontinue commercial and industrial service.
3. The City discontinue industrial and commercial pick-up and allow the individual businesses to contract with the private haulers.

The City Manager was directed to meet with the Utility Committee and representatives from Garbage Disposal Services and Tilson Sanitation to work out a solution to the problem. Council also agreed to call a special meeting of the Council if necessary to take some sort of action.

**SANITATION DEPARTMENT - RESIDENTIAL COLLECTION - PROPOSED AMENDMENT TO "AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE":** The City Manager stated that he had received several complaints from persons inside the City concerning dogs getting into garbage with plastic disposable baby diapers. He stated that he would like to propose an ordinance that would require certain items to be placed in plastic garbage bags.

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

**AN ORDINANCE AMENDING THE ORDINANCE ENTITLED "AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE"**

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

**SECTION 1.** That Section 1 of the Ordinance entitled "AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE" adopted on the 25th day of June, 1987 is hereby deleted in its entirety and a new Section 1 inserted in lieu thereof to read as follows:

**SECTION 1. Residential Collection.** All wet garbage, including sanitary napkins and disposal baby diapers, shall be placed in plastic bags and tied securely and deposited in strong, sound cans of not more than thirty-five (35) gallon capacity which shall be covered with tight-fitting, fly-proof tops when they contain garbage. Each can shall be equipped with two (2) handles. However, cans of less capacity than fifteen (15) gallons need be equipped with only one handle.

**SECTION 2.** All other sections, sub-sections and amendments to the Ordinance entitled "AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE" shall remain in full force and effect.

**ADOPTED** this the 18th day of April 1989.

Robert Ayers, Mayor Pro-Tem



## ATTEST:

J. Earl Daniels, City Manager/Clerk

O-89-04-18-01

The City Manager stated that the City could provide plastic bags for the residents in bundles of ten bags for approximately one dollar. He stated that if Council agreed, the bags would be available at either City Hall or the Warehouse. Council was in agreement to offer the bags for the residents.

**BILLBOARD MORATORIUM - PROPOSED EXTENSION:** Councilman Little stated that he would like to have the Billboard Moratorium extended until the end of May. He stated that they should have the ordinance completed by that time. (The original moratorium was adopted on May 3, 1988).

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to extend the Billboard Moratorium until the end of May.

**SUPERVISOR OF ELECTIONS - REPORT:** The City Manager stated that the Attorney General's Office had replied to the question of the Supervisor of Municipal Elections residency requirement. The letter stated that there was no statutory requirement that the Supervisor live inside the municipal limits that they serve.

Council was in agreement to allow Ms. Jane Sigmon to continue as Supervisor of Elections and Registrar eventhough she has moved outside the municipal limits.

**PLANNING/ZONING BOARD - APPOINT ONE MEMBER:** The City Manager stated that an appointment needed to be made to the Planning/Zoning Board to fill the unexpired term of Mrs. Bobbie Young.

Council agreed to table the matter until the Chairman of the Board could be contacted.

**ABC BOARD - APPOINT ONE MEMBER - TERM EXPIRES OF MR. CLYDE SHAW:** Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to re-appoint Mr. Clyde Shaw to a three year term on the City of Marion ABC Board. Said term to begin April 18, 1989.

**RECREATION COMMISSION - MR. DAVID BOBO - MOVED OUTSIDE CITY LIMITS:** The City Manager presented a letter from Mr. David Bobo, member of the Recreation Commission representing the City stating that he had moved outside the municipal limits, however, he would like to continue his unexpired term.

Council was in agreement to allow Mr. Bobo to continue his unexpired term on the Recreation Commission eventhough he had moved outside the Municipal Limits.

REPORTS:

1. **FIRE HYDRANTS - PLEASANT GARDENS:** The City Manager stated that he would like to report that all of the fire hydrants in the Pleasant Gardens Area had been put in.

2. **HOLDING OF WATER/SEWER TAP-ONS PENDING IMPACT CHARGES:** The City Manager stated that he had heard from Mr. Gary McGill, City Engineer concerning the Water Study concerning impact charges. He stated that Mr. McGill was recommending that impact charges be implemented and they would be of a substantial amount.

The City Manager stated that he had asked that the ladies in the Water Department no to accept any applications for Water/Sewer Tap-Ons until impact charges are established. He stated that he would like to get the approval of Council for this action. Council agreed.

**EXECUTIVE SESSION - DISCUSSION OF POSSIBLE LEGAL MATTER:** Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to go into Executive Session.

Upon a motion by Councilman Stronach, seconded by Councilman

Cross, those members of Council present voted unanimously to reconvene in Regular Session.

**ADJOURNMENT:** Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council voted unanimously to adjourn.

Robert Ayers, Mayor Pro-Tem

## ATTEST:

J. Earl Daniels, City Manager/Clerk



STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

May 2, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, May 2, 1989 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Charles Burgin, City Attorney; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Bill Conner, Marion Police Department; Andre Huskins, Marion Police Department; 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. Selana Huskins, Highway 70 West; Ms. Dorothy H. Harris, Highway 70 West; Mr. Clarence Glenn, 12 Westwood Village; Mr. Donald Ramsey, 11 Westwood Village; Mr. David Tilson, Tilson Sanitation; Mr. Gene Cable, Tilson Sanitation; Ms. Palmer Hensley, Dameron & Burgin; Dr. & Mrs. R.S. McCall, Forest Road; Mr. & Mrs. David Blanton, Forest Road; Mr. Dean Gouge, McDowell County Schools Drop Out Prevention; Mr. Jullian Austin, 521 Pinecrest Drive; Dr. David DuBose; Mr. Woody Hartin, North Carolina Department of Natural Resources and Community Development; Mr. Jim Kalkwarf, Garbage Disposal Services; Mr. Tom Winkler, Garbage Disposal Services; Mr. Ronnie Burgin; Mr. Jack McHone, Pine Street; Mrs. Elizabeth Noyes, Hillside Drive; Ms. Donna Piper, East Court Street; Mr. Brady Brooks, Montevista Avenue; Mr. Guy Gorecki, Clinchfield Area.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the April 18, 1989 meeting.

**MR. DEAN GOUGE - McDOWELL COUNTY SCHOOLS - DROP OUT PREVENTION PROGRAM:** Mr. Dean Gouge, Coordinator of the McDowell County Schools Drop Out Prevention Program appeared before Council to thank them for their support of the program. Mr. Gouge stated that Mayor Clark had been very willing to support this program on behalf of the City and he would like to express his appreciation to him.

Mayor Clark stated that he had been concerned about the drop-out rate for some time and that McDowell County had one of the highest rates in the State. He stated that he was glad that the Board of Education had taken this step to help eliminate the problem.

Mr. Gouge presented Mayor Clark with a plaque of the original document signed by various persons in leadership positions to form the committee.

**MR. CHARLES BURGIN - PRESENTATION - OUTLOOK PROGRAM:** Mr. Charles Burgin appeared before Council and presented them with a copy of the study. Mr. Burgin stated that he was very proud of the work the accomplished by the committee.

**PRESENTATION - SERGEANT BILL CONNER MARION POLICE DEPARTMENT:** Mayor Clark and Police Chief Gilsdorf presented Sergeant Bill Conner with an Intermediate Certificate for professional overall achievement in law enforcement. The Police Chief stated that he would like to personally thank Sergeant Conner for the work he had done for the department. He stated that Sergeant Conner had served in law enforcement for the past forty years and had attended numerous schools to further his education in law enforcement.

**REQUEST - WATER & SEWER TAP CONNECTION - MR. RONNIE BURGIN:** The City Manager stated that at the present time, water and sewer taps were being held until the impact fees could be set. He stated that he had received a letter from Mr. Ronnie Burgin requesting that he be allowed to have a water and sewer tap to his property in the Clinchfield area. The letter stated that he would like to have the taps installed at the present rate.

The City Manager stated that Public Works Director, Mr. Glen Sherlin had also received a request from Mr. Guy Gorecki for a water and sewer tap also in the Clinchfield area.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow Mr. Burgin and Mr. Gorecki to have a water and sewer tap to their properties in the Clinchfield area at the present rate.

**PUBLIC HEARING - ANNEXATION - FIVE LANE PROPERTY:** The City Manager stated that he would like to call the Public Hearing to Order. He stated that the purpose of the public Hearing was to allow the citizens in the proposed area along the Five Lane to speak to the City Council and ask questions concerning the annexation.

The City Manager explained to the persons present the requirements the City had



when an area was annexed: garbage collection, fire hydrants, street light policies, police protection, and comments about certain private streets and what would need to be done if the citizens wished for the street to become public.

The Police Chief stated that if the budget allowed, he hoped to add five additional police officers to the department to help serve the newly annexed areas. He stated that he was most concerned about the speed limits and rate of accidents on the Five Lane.

Some of the residents present asked general questions concerning services available to them, street maintenance, etc.

There being no further questions or discussion, the City Manager closed the Public Hearing.

**MRS. ELIZABETH NOYES - COMMENTS - PRESENTATION OF PETITION:** Mrs. Elizabeth Noyes appeared before Council and read a lengthy letter concerning complaints she had with noises from garbage trucks and persons cleaning the parking lot at the Marion City Square Shopping Center. She stated that she was very upset with the City for allowing the shopping center to come into the neighborhood and not screening it from the view of the homes in the area.

**SANITATION DEPARTMENT - CONTRACT SERVICES ON FIVE LANE:** The City Manager stated that the Utility Committee had recommended that the City contract with both Garbage Disposal Services and Tilson Sanitation to continue with their garbage pick-ups on the Five Lane. The City Manager stated that the City would pay for a maximum of two pick-ups per week as the present policy states. He stated that any additional pick-ups would be the responsibility of the business owner and that the City would not pay rent on the containers.

Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to accept the recommendation of the Utility Committee.

**APPOINTMENTS - PLANNING/ZONING BOARD:** The City Manager presented a memorandum from Zoning Administrator, Lovina Smith concerning the appointments to the Planning/Zoning Board.

The memorandum stated that due to the resignations of both Mrs. Bobbie Young and Mr. Phillip Tate, the Planning Board had two vacancies. Mrs. Smith recommended that Mr. Wilton Carter be moved from an alternate position to a regular position to fill the unexpired term of Mrs. Bobbie Young. Said term would expire January 31, 1991. Mrs. Smith also recommended that Mrs. Susan Hollar be named as an alternate member of the Board and the other vacancy left from Mr. Wilton Carter moving to a regular position be tabled until the annexations effective June 30, 1989 so that a person from that area could be represented. Both alternate positions would be for a period of three years.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to accept the recommendation of the Zoning Administrator.

**POWELL BILL REPORT - SELECT SURVEYOR:** The City Manager stated that each year a surveyor had to be selected to prepare the annual Powell Bill Report. He stated that Mr. Larry Greene did the survey each year and he would like to recommend that he be allowed to do the survey this year.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to contract with Mr. Larry Greene to prepare the Powell Bill Report.

**SIDEWALK BIDS REPORT:** The City Manager presented the following bid tabulations to Council for their review:

1. APAC - Carolina, Inc.: To remove existing concrete sidewalk, install ABC Stone to raise the subgrade to support new sidewalk. Pour 4" concrete sidewalk with 12" monolithic face per North Carolina D.O.T. Typical Section approx. 554 square yards or 4,986 square feet.

Unit Price: \$52.25 per square yard  
Unit Price: \$ 5.80 per square foot

2. Hobson Construction Company:

Remove the existing concrete walks: \$2,502.00

Form and pour curb and walk with monolithic  
pour using 3,000 psi concrete 13,344.00

Pour driveway turnouts 6" deep 1,500.00

A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted



unanimously to allow the City Manager and Public Works Director to negotiate with Hobson Construction Company, the low bidder to accomplish the work.

**COMMUNITY BUILDING PROPERTY - BOUNDARY LINE - QUESTION:** Before the discussion began, Councilman Cross asked to be excused from the discussion and to be allowed to abstain from voting since he had a private interest in the property.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to allow Councilman Cross to be excused from the discussion and to abstain from the voting concerning the Community Building property.

City Attorney Charles Burgin appeared before Council and explained that First Union National Bank wished to purchase property adjoining the Marion Community Building which belongs to the Cross heirs.

Mr. Burgin stated that he had noticed a problem because the deed to the Cross property did not account for a twelve foot patch of land. He stated that he would like for the City to agree that the boundary of land be set in a straight line following the base of the rock wall and then in a straight line from the end of the rock wall to the fence.

Mr. Burgin stated that he would like to recommend that the City enter into a boundary line agreement with First Union National Bank. Mr. Burgin stated that he did not think that it would be appropriate for the City to enter into the agreement with the Cross heirs due to the fact that Mr. John Cross was a member of the City Council and he had power-of-attorney for the Cross heirs.

Councilman Little stated that he felt that First Union National Bank should bear the cost for the agreement to be drawn concerning the boundary line. Mr. Burgin stated that he would like to draw up the agreement since he represented the City.

A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to enter into an agreement with First Union National Bank to establish a boundary line with the City Attorney preparing the document and First Union National Bank bearing the cost.

Councilman Cross rejoined the meeting at this time.

#### **REPORTS:**

**1. UTILITY RATE STUDY:** The City Manager stated that he had been in contact with Mr. Gary McGill, City Engineer concerning the utility rate study. He stated that he would like to set up a meeting next week if possible. Council agreed to call a meeting on Tuesday morning, May 9, 1989 at 7:30 A.M. at Cafe in the Park if Mr. McGill could attend.

**2. LEASE AGREEMENT - U.S. FOREST SERVICE:** The City Manager stated that he had received a lease agreement from the U.S. Forest Service for the property on the corner of Logan and Court streets that they currently lease from the City. He stated that the lease was for a period of five years with a written sixty day notice of termination. Council agreed to renew the lease on a month to month basis with a thirty day notice of termination.

**3. FIVE LANE WASTE TREATMENT PLANT - ADDITIONAL CHARGES:** The City Manager stated that he had received a copy of a letter from Mr. Curt Eckerd of Hickory Construction where changes had been made but there had been no change work orders. The City Manager stated that he wanted Council to be aware that he had not been contacted by George Jensen concerning the change work orders.

**4. FIVE LANE WASTE TREATMENT PLANT - CHAIN LINK FENCE:** The City Manager stated that it had been requested that the area around the waste treatment plant be fenced. He stated that he would like to suggest that instead of fencing the entire area, to fence only the areas where someone could get into and possibly be hurt. A short discussion followed. The City Manager was directed to get prices on the vinyl coated fence to be placed directly around the areas and a free standing regular fence.

**5. TRAFFIC SIGNAL POLES - MAIN STREET:** The City Manager stated that he would like to report that the delivery date for the traffic signal poles for Main Street was May 24. He stated that work on Main Street was to begin on May 1, but due to weather conditions, it had been delayed a few days.

**6. D.O.T. ANNUAL T.I.P. MEETING:** The City Manager stated that the annual D.O.T. Meeting for T.I.P. Projects would be held on Tuesday, May 23 at Mars Hill College.

**7. COUNCILMAN LITTLE - BILLBOARD MORATORIUM REPORT:** Councilman Little stated that he hoped to present a final copy of the proposed Billboard Moratorium at the



next meeting of Council.

8. LOGAN STREET - REPORT OF TWO LANE LEADING INTO HIGHWAY 70: The City Manager stated that he had met with Mr. Jerry Van Dyke concerning the property at Century 21 Realty. He stated that Mr. Van Dyke was to get in contact with the property owner for the City. The City Manager stated that he had received a call from Ms. Lunger, who is handling the property for her sister who asked him to contact her directly rather than going through another party. A short discussion followed.

Council agreed to allow Councilman Tyler, Councilman Stronach, and Councilman Cross to contact Mrs. Fesperman concerning the property.

9. COUNCILMAN AYERS - QUESTION OF STATUS OF NEW SHOPPING CENTER: Councilman Ayers asked if anyone had a status report of the new shopping center. He stated that he had noticed equipment in the location and wondered if construction had begun. He was informed that the property owners had not contacted the City yet for permits.

9. ENCROACHMENTS - SEWER LINE - FIVE LANE PROJECT: The City Manager stated that Mr. Tony Moore of D.O.T. had contacted him to let him know that D.O.T. would not approve the encroachments for the sewer line to go under the road in the right hand lane on Highway 70 where Hollifield Sales is located. The City Manager stated that Mr. Hollifield owned the property to the north of the highway and he had been contacted concerning an easement. Mr. Hollifield had advised that he would like to contact his attorney and would then talk to the City.

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

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

May 9, 1989

The Marion City Council met in Special Session on Tuesday morning, May 9, 1989 at 7:30 A.M. at Cafe In the Park.

The purpose of the meeting was to discuss the proposed water study prepared by McGill Associates.

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; Gary McGill, City Engineer; and Dale Pennell, City Engineer.

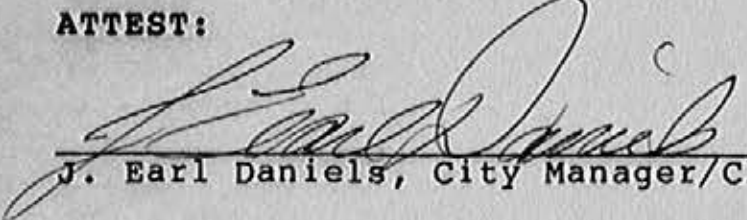
Mr. McGill presented Council with a publication entitled Preliminary Water & Sewer Charges, City of Marion, May 8, 1989.

Mr. McGill went over the proposed impact charges and increases in water and sewer rates.

No action was taken.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk



DEPARTMENT OF  
CULTURAL RESOURCES  
DIVISION OF ARCHIVES AND HISTORY

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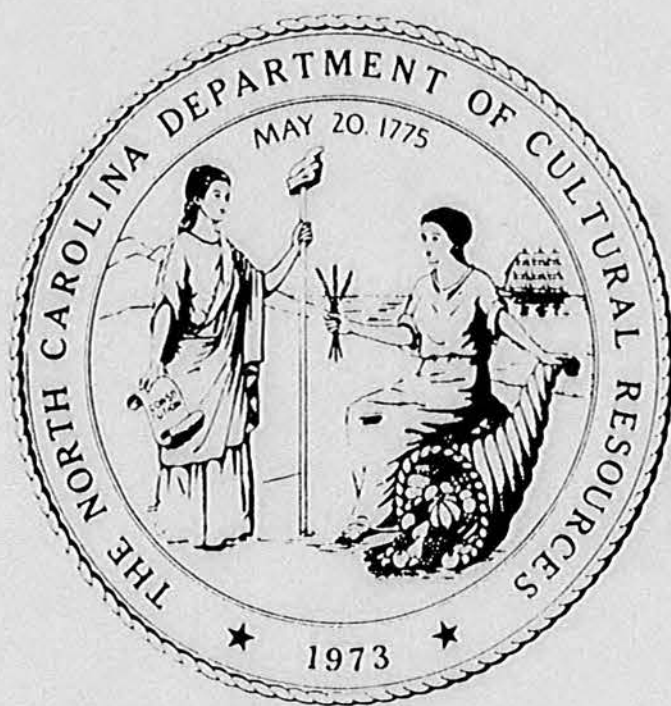
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# **STATE OF NORTH CAROLINA**

## **DEPARTMENT OF CULTURAL RESOURCES**



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MCDOWELL COUNTY

CITY OF MARION

COUNCIL MINUTES



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STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

May 16, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, May 16, 1989 at 7:00 P.M. in the City Council Chamber.

**BOARD MEMBERS PRESENT:** Mayor Pro-Tem Robert Ayers; Councilmen Angus Stronach, Joe Tyler, Steve Little and John Cross. Mayor A. Everette Clark arrived at 7:50 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Bill Gilsdorf, Chief of Police; Woody Hartin, North Carolina Department of Natural Resources and Community Development; Van McKinney, News Reporter, W.B.R.M. Radio, and Lydia Carrington, News Reporter, The McDowell News.

**GUESTS PRESENT:** Ms. Jeannette Turner, 263 Church Street; Mrs. Terry McKinney, 13 Circle Street; Ms. Maude Beachboard, 261 Church Street; Mrs. Lois Hensley, Hensley's Studio; Mrs. Cecilia Stewart, Hensley's Studio; Jerry & Ruby Hall, 502 5th Street Clinchfield; Ms. Mary Meade Hollifield, Etta Packaging; Ms. Sylvia Scott, Etta Packaging; Mr. Rick Moore, Village Jewelry, Inc.; Ms. Deborah Moore, Village Jewelry, Inc.; Rodger Crenshaw, Edward D. Jones & Co.; Elizabeth G. Noyes, 352 Hillside Drive; Ms. Glenyn B. Gilbert, 218 Virginia Road; Ms. Hattie S. Greene, 370 Hill Street; Mr. Ted B. Buckner, 412 Fourth St. Clinchfield; Mr. Ronnie Burgin, PO Box 1507; Mr. Jack McHone, 10 Pine Groove; Mr. Roger White, Rice & White Furniture; Mr. Rod Birdsong, Chamber of Commerce; Mr. Tony Lynch, Downtown Business Association; Mrs. Lee Lynch, Downtown Development Director; Mr. Hugh Franklin, Carnes & Franklin; Mr. Jim Young, Downtown Business Association; Mr. Clyde Shaw, Etta Packaging; Mr. Robin Hood, Chairman, City of Marion Planning & Development Board; Mr. Ted Davis, Johnson's Bookstore; Mr. & Mrs. David Blanton, Forest Road; Mr. Darwin Neubauer, Downtown Business Association; Mr. David Setzer, The McDowell News; Mr. Larry Brown, Montevista Avenue; Mr. Fred Williams, Duke Power Company; Mr. Ed Rankin, Marion Credit; Mr. Les Litzenburger, Country Goose Cafe; Ms. Bobby Young, Nova Office & School Supply; Mr. Joe Hyder, Nova Office & School Supply; Ms. Margaret Wood, Caraway Furniture & Paint Store; Mrs. Wanda Hyder, The Magic Act; Mr. & Mrs. Donald Anderson, Anderson Realty; Mr. Red Walker, ACE Building Supply; Mr. Jack Walker, ACE Building Supply; Mr. Francis O'Buckley, Clinchfield; and Mr. Everette Carnes, Carnes & Franklin.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the May 2, and May 9, 1989 meetings.

**PUBLIC HEARING - LOWES & FIRST UNION - PETITION FOR ANNEXATION:** The City Manager opened a Public Hearing for the purpose of discussing the ordinance for the Lowes and First Union Property.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council 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 P.M., on the 16th day of May, 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; and

**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 31st day of May, 1989:

**BEGINNING** on a railroad spike set at the south edge of U.S. 70 in the center of a railroad spur, and in the Clinchfield Annexation line for the City of Marion, North Carolina, said railroad spike being located N 58 52'36" E 5,961.54' from NCGS Monument "Marion" said NCGS Monument having a northing coordinante of



717,393.490, and an easting coordinate of 1,106,675.900 (NAD 27), and runs thence with the south side of U.S. 70 and the Clinchfield Annexation lines, the following seven (7) bearings and distances:

N 61° 58' 47" E 228.68'; N 60° 05' 35" E 119.74'; N 56° 53' 04" E 124.36' N 52° 24' 35" E 124.88'; N 50° 24' 55" E 120.65'; N 48° 32' 57" E 121.50'; N 47° 17' 40"; E 93.17' to a railroad spike set in the south edge of U.S. 70, said railroad spike being located N 01° 26' 36" E 125.47' from a concrete monument set for control on a previous City Limits survey, said monument having a northing coordinate of 720,881.42 and an easting coordinate of 1,112.537.44'.

Thence leaving the south side of U.S. 70 and running with the line of David Huskins, S 54° 47' 41" E (passing an existing iron pin at 38.26') a total distance of 244.11 to an iron pin set on a previous survey in the center of the main tract of Southern Railway, thence with said main tract, S 46° 30' 03" W 420.11' to a point where the main tract intersects a spur track leading to the old Burlington Industries Clinchfield Plant, thence continuing with said main tract of Southern Railway, S 46° 34' 30" W 436.60' to an existing iron pin in the centerline of said track and in the Southern right of way for Yancey Street, said iron pin being corner of the present City Limits of Marion, North Carolina, thence with the southern right-of-way for Yancey Street and the present City Limits lines for Marion, North Carolina, the following fourteen (14) bearings and distances:

N 51° 28' 09" W 13.48'; N 55° 25' 39" W 13.40'; N 58° 23' 39" W 13.14'; N 61° 02' 09" W 20.97'; N 66° 16' 45" N 69° 09' 59" W 21.80'; N 71° 58' 45" W 22.32'; N 73° 54' 33" W 28.99'; N 73° 23' 39" W 34.44'; N 71° 42' 03" W 45.12'; N 70° 18' 03" W 44.43'; N 70° 04' 51" W 45.73'; N 74° 24' 21" W 56.48'; N 79° 34' 15" W 73.57' to an iron pin located at the southern margin of the pavement for U.S. 70 East and in the annexation line for the Clinchfield Annexation to the City of Marion, thence with said line and the southern margin of U.S. 70, N 59° 55' 49" E 101.91' to the **BEGINNING**, containing 5.89 acres by DMD.

All bearings are from N.C. Grid North and all distances are horizontal ground distances.

**Section 2.** Upon and after the 31st day of May, 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 of the 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. 163-228.1.

ADOPTED this the 16th day of May, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

This portion of the Public Hearing was closed.

**PUBLIC HEARING - ORDINANCE - 5-LANE ANNEXATION:** The City Manager opened a Public Hearing for the purpose of discussing the Ordinance for the 5-Lane Annexation:

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance:

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY  
OF MARION, UNDER THE AUTHORITY GRANTED BY PART 2,  
ARTICLE 4A, CHAPTER 160A OF THE GENERAL STATUTES OF NORTH CAROLINA**

**WHEREAS**, all of the prerequisites to adoption of this ordinance prescribed in Part 2, Article 4A, Chapter 160A, of the General Statutes of North Carolina, have been met; and

**WHEREAS**, the City of Marion has taken into full consideration the statements presented at the public hearing held on the 2nd day of May, 1989, on the question of this annexation; and

**WHEREAS**, the City of Marion has concluded and hereby declares that annexation



of the area described herein is necessary to the orderly growth and development of the City of Marion;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Marion:

**Section 1.** That from and after the 30th day of June, 1989, the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall on the 30th day of June, 1989, be extended to include said territory more particularly described metes and bounds as follows:

City of Marion Annexation located North of the existing City Limits along U.S. Hwy 70 and U. S. Hwy 221 and N.C. Hwy 226 commonly known as the Five Lane:

**BEGINNING** on a 3/4" iron pipe set in the existing City Limits boundary and being in the western boundary line of Herman Huffman property as recorded in the McDowell County Register of Deeds in Deed Book 272, page 376 and runs:

Thence N. 12 degrees 17 minutes 18 seconds W. for a distance of 447.64 feet to an existing iron pipe the northwest corner of the Herman Huffman property

Thence N. 67 degrees 59 minutes 53 seconds E. for a distance of 255.94 feet to an existing iron pipe found the corner of the Herman Huffman and the John Cross property; The Cross property being recorded in Deed book 272, page 400

Thence N. 67 degrees 27 minutes 34 seconds E. for a distance of 330.19 feet to an exiting iron pipe corner in the John Cross northern boundary line and the southwest corner of the Goldsmith property as recorded in Deed Book 246, page 30

Thence N. 29 degrees 25 minutes 59 seconds W. for a distance of 249.40 feet with the west boundary line of the Goldsmith property to an existing from pipe the northwest corner of the goldsmith property and the southwest corner of the Collins property as recorded in Deed Book 369, page 40

Thence N. 29 degrees 26 minutes 10 seconds W. for a distance of 200.03 feet to an existing iron pipe the northwest corner of the Collins property and the southwest corner of the Butler property as recorded in Deed Book 370, page 831

Thence N. 29 degrees 31 minutes 52 seconded W. for a distance of 112.18 feet to an existing iron pipe the Butler northwest corner

Thence N. 29 degrees 28 minutes 13 seconds W. for a distance of 62.10 feet to existing iron pipe the southeast corner of the McCall property as recorded the McDowell County Register of Deeds in Deed Book 249, page 15 and also being the common corner of Meridith College corner and being recorded in Deed Book 349, page 254

Thence N. 46 degrees 46 minutes 32 seconds west for a distance of 203.14 feet to existing iron pipe in the McCall western boundary line located at the toe of the embankment of Finley Road

Thence N. 46 degrees 46 minutes 32 seconds W. for a distance of 37.76 feet crossing State Road Number 1209 commonly known as Finley Road to a point in the western edge of road

Thence S. 42 degrees 06 minutes 42 seconds W. for a distance of 91.35 feet with the western edge of Finley Road the following calls and distances

Thence S. 41 degrees 40 minutes 15 seconds W. for a distance of 103.11 feet

Thence S. 42 degrees 12 minutes 55 seconds W. for a distance of 205.57 feet

Thence S. 42 degrees 25 minutes 50 seconds W. for a distance of 101.65 feet

Thence S. 44 degrees 18 minutes 28 seconds W. for a distance of 51.70 feet

Thence S. 43 degrees 08 minutes 48 seconds for a distance of 46.41 feet

Thence S. 41 degrees 45 minutes 11 seconds W. for a distance of 47.86 feet

Thence S. 37 degrees 53 minutes 39 seconds W. for a distance of 46.09 feet

Thence S. 35 degrees 20 minutes 36 seconds W. for a distance of 47.13 feet

Thence S. 31 degrees 04 minutes 37 seconds W. for a distance of 48.47 feet

Thence S. 26 degrees 49 minutes 25 seconds W. for a distance of 48.54 feet



Thence S. 21 degrees 51 minutes 49 seconds W. for a distance of 102.12 feet

Thence N. 88 degrees 22 minutes 46 feet W. for a distance of 28.35 feet leaving the western edge of Finley Road to an existing iron pipe and running with the western boundary line of the Maple Leaf Bowling Alley property the following calls and distances:

Thence N. 88 degrees 22 minutes 46 seconds W. for a distance of 325.44 feet to an existing iron pipe

Thence S. 01 degree 37 minutes 08 seconds W. for a distance of 258.32 feet to an existing iron pipe

Thence S. 86 degrees 11 minutes 08 seconds W. for a distance of 412.29 feet to a point in the center line of State Road Number 1206

Thence N. 08 degrees 39 minutes 52 seconds W. for a distance of 23.00 feet with the center line of State Road Number 1206 commonly known as Valley Street to a point

Thence N. 45 degrees 23 minutes 08 seconds E. for a distance of 300.58 feet leaving the center line of Valley Street and running with the Billy Morgan southern boundary line as recorded in the McDowell County Register of Deeds in Deed Book 226, page 60 to an existing iron pipe. Continuing with the Morgan Western boundary line and the Maple Leaf Bowling Alley property

Thence N. 42 degrees 09 minutes 52 seconds W. for a distance of 187.35 feet then with the following owners eastern boundary lines: Pless, Roland, Birdsong, Huskins, Hachadurian, Causby, Grant Bach and the western boundary of the Bowling Alley property the following courses and distances

Thence N. 39 degrees 38 minutes 52 seconds W. for a distance of 248.81 feet to an existing iron pipe

Thence N. 89 degrees 47 minutes 08 seconds E. for a distance of 124.99 feet to an existing iron pipe

Thence N. 14 degrees 42 minutes 52 seconds W. for a distance of 100.00 feet to an existing iron pipe

Thence N. 24 degrees 27 minutes 52 seconds W. for a distance of 119.71 feet to an existing iron pipe

Thence N. 21 degrees 49 minutes 52 seconds W. for a distance of 55.20 feet to an existing iron pipe

Thence N. 13 degrees 48 minutes 52 seconds W. for a distance of 65.60 feet to an existing iron pipe

Thence N. 03 degrees 43 minutes 08 seconds E. for a distance of 55.10 feet to an existing iron pipe

Thence N. 24 degrees 03 minutes 08 seconds E. for a distance of 69.46 feet to an existing iron pipe

Thence N. 82 degrees 56 minutes 51 feet W. for a distance of 166.43 feet to an existing iron pipe

Thence N. 18 degrees 13 minutes 17 seconds E. for a distance of 54.88 feet to an existing iron pipe in the western margin of Valley Street

Thence N. 27 degrees 11 minutes 44 seconds E. for a distance of 57.43 feet to a point in the eastern edge of Valley Street then with the eastern edge of Valley Street the following courses and distances

Thence N. 33 degrees 40 minutes 52 seconds E. for a distance of 58.91 feet

Thence N. 39 degrees 39 minutes 21 seconds E. for a distance of 39.59 feet

Thence N. 45 degrees 15 minutes 53 seconds E. for a distance of 73.74 feet

Thence N. 57 degrees 57 minutes 32 seconds E. for a distance of 104.14 feet

Thence N. 69 degrees 54 minutes 19 seconds E. for a distance of 88.59 feet

Thence N. 83 degrees 29 minutes 28 seconds E. for a distance of 87.12 feet

Thence S. 84 degrees 26 minutes 38 seconds E. for a distance of 99.35 feet

Thence S. 72 degrees 41 minutes 31 seconds E. for a distance of 114.25 feet

Thence S. 72 degrees 05 minutes 16 seconds E. for a distance of 120.84 feet

Thence S. 78 degrees 40 minutes 14 seconds E. for a distance of 99.79 feet

Thence S. 85 degrees 25 minutes 13 seconds E. for a distance of 152.31 feet

Thence N. 87 degrees 33 minutes 47 seconds E. for a distance of 85.18 feet

Thence N. 79 degrees 34 minutes 10 seconds E. for a distance of 92.30 feet

Thence N. 68 degrees 14 minutes 06 seconds E. for a distance of 68.73 feet

Thence N. 60 degrees 24 minutes 31 seconds E. for a distance of 54.25 feet

Thence N. 48 degrees 44 minutes 03 seconds E. for a distance of 82.77 feet

Thence N. 23 degrees 50 minutes 24 seconds E. for a distance of 67.00



feet Thence N. 02 degrees 23 minutes 42 seconds E. for a distance of 53.96  
feet Thence N. 12 degrees 35 minutes 23 seconds W. for a distance of 72.58  
feet Thence N. 22 degrees 05 minutes 52 seconds W. for a distance of 98.77  
feet Thence N. 28 degrees 26 minutes 45 seconds W. for a distance of 80.91  
feet Thence N. 38 degrees 00 minutes 29 seconds W. for a distance of 76.87  
feet to an existing iron pipe in the eastern margin of Valley Street  
Thence N. 50 degrees 58 minutes 41 seconds W. for a distance of 59.55  
feet to a point in the eastern edge of Valley Street and continuing with the  
edge of Valley Street the following courses and distances:  
Thence N. 57 degrees 16 minutes 00 seconds W. for a distance of 100.00  
feet Thence N. 59 degrees 44 minutes 31 seconds W. for a distance of 108.55  
feet to a point in the southern margin of Rector Street, crossing Rector  
Street  
Thence N. 59 degrees 31 minutes 00 seconds W. for a distance of 30.00  
feet to an existing iron pipe in the northern margin of Rector Street  
Thence N. 38 degrees 20 minutes 56 seconds E. for a distance of 266.89  
feet with the northern margin of Rector Street to an existing iron Robinson  
Texaco's southwest corner, said property being recorded in the McDowell  
County Register of Deeds in Deed Book 277, page 560  
Thence N. 53 degrees 41 minutes 19 seconds W. for a distance of 247.51  
feet with the western boundary line of Robinson Texaco property and crossing  
Valley Street to a point in the western margin of Valley Street and being a  
point in the southern boundary of the Joesph Chung property as recorded in  
the McDowell County Register of Deeds in Deed Book Number 368, page 596  
Thence S. 38 degrees 35 minutes 54 seconds W. for a distance of 125.13  
feet with the northern margin of Valley Street and the southern boundary line  
of the Chung property to a point the southwest corner of the Dr. Chung lot  
Thence N. 48 degrees 49 minutes 39 seconds W. for a distance of 599.77  
feet with northern right of way of Forest Drive and with the common boundary  
line of the Chung lot to an existing iron pipe found  
Thence N. 38 degrees 41 minutes 52 seconds E. for a distance of 40.16  
feet leaving Forest Drive to an iron pipe found said iron pipe being the  
southwest corner of the National Community Centers as recorded in the  
McDowell County Register of Deeds in Deed Book 343, page 887  
Thence N. 49 degrees 51 minutes 40 seconds W. for a distance of 164.71  
feet to an existing iron pipe the southeast corner of the Robertson property  
as recorded in the McDowell County Register of Deeds in Deed Book 361, page  
515 continuing with the western boundary line of the Robertson property  
Thence N. 48 degrees 59 minutes 35 seconds W. for a distance of 150.04  
feet to an existing iron pipe in the southeast corner of of the Huskins  
property and the northwest corner of the Robertson property  
Thence N. 57 degrees 44 minutes 29 seconds W. for a distance of 133.76  
feet to a point in the Huskins western boundary line  
Thence N. 50 degrees 50 minutes 22 seconds W. for a distance 53.00 feet  
to a point in the Huskins western boundary line  
Thence N. 49 degrees 14 minutes 33 seconds W. for a distance of 30.07  
feet to an existing iron pipe the southeast corner of the Ballew property as  
recorded in the McDowell County Register of Deeds in Deed Book Number 252,  
page 852; then with the western boundary line of the Ballew property  
Thence N. 24 degrees 30 minutes 43 seconds W. for a distance of 69.42  
feet to an existing iron pipe then with the western boundary line of the  
Ballew property the next six (6) courses and distances  
Thence N. 35 degrees 14 minutes 48 seconds W. for a distance of 71.53  
feet to an existing iron pipe  
Thence N. 32 degrees 29 minutes 48 seconds W. for a distance of 84.47  
feet to an eight (8) inch Hemlock Tree  
Thence N. 23 degrees 59 minutes 48 seconds W. for a distance of 89.44  
feet to an existing iron pipe  
Thence N. 18 degrees 18 minutes 05 seconds W. for a distance of 94.58  
feet to a point  
Thence N. 43 degrees 34 minutes 04 seconds W. for a distance of 110.05  
feet to an existing iron pipe  
Thence S. 78 degrees 31 minutes 23 seconds W. for a distance of 103.05  
feet to an existing iron pipe the northwest corner of the Ballew property and  
the southeast corner of the Shelter Associates, Inc. property  
Thence S. 57 degrees 12 minutes 25 seconds W. for a distance of 83.20  
feet to an existing iron pipe: then with the southern and western property  
lines of Shelter Associates, Inc. property the following courses and  
distances  
Thence N. 37 degrees 19 minutes 21 seconds W. for a distance of 214.57  
feet to a point  
Thence N. 32 degrees 40 minutes 23 seconds W. for a distance of 337.44  
feet crossing State Road Number 1404 commonly known as Bradley Road to an  
existing iron pipe and being in the northern margin of State Road Number 1404  
the southeast corner of the Jackson property as recorded in the McDowell



6  
County Register of Deeds in Deed Book 338, page 596 continuing with the northern margin of State Road Number 1404

Thence N. 64 degrees 01 minutes 33 seconds E. for a distance of 38.49 feet to an existing iron pipe a corner in the Jackson southern boundary line then continuing eighteen (18) courses and distances with the eastern and southern boundary lines of the following owners: Jackson, Whitner, Sinclair, Greene, Atkin, and the western margin of of State Road Number 1404. Iron pipes found at the termus points of the courses

Thence N. 58 degrees 01 minutes 14 seconds E. for a distance of 87.25 feet

Thence N. 53 degrees 07 minutes 22 seconds E. for a distance of 54.12 feet

Thence N. 41 degrees 41 minutes 03 seconds E. for a distance of 23.74 feet

Thence N. 41 degrees 27 minutes 26 seconds E. for a distance of 21.64 feet

Thence N. 35 degrees 05 minutes 12 seconds E. for a distance of 27.38 feet

Thence N. 19 degrees 38 minutes 33 seconds E. for a distance of 20.26 feet

Thence N. 4 degrees 48 minutes 29 seconds E. for a distance of 37.61 feet

Thence N. 16 degrees 27 minutes 03 seconds W. for a distance of 90.25 feet

Thence N. 16 degrees 20 minutes 56 seconds W. for a distance of 232.40 feet

Thence N. 08 degrees 31 minutes 06 seconds W. for a distance of 20.00 feet

Thence N. 08 degrees 34 minutes 26 seconds W. for a distance of 37.99 feet

Thence N. 06 degrees 30 minutes 32 seconds E. for a distance of 49.19 feet

Thence N. 02 degrees 02 minutes 42 seconds E. for a distance of 17.35 feet

Thence N. 02 degrees 19 minutes 08 seconds E. for a distance of 9.47 feet

Thence N. 12 degrees 41 minutes 06 seconds E. for a distance of 31.97 feet

Thence N. 21 degrees 55 minutes 08 seconds E. for a distance of 78.46 feet

Thence N. 26 degrees 38 minutes 18 feet E. for a distance of 24.71 feet

Thence N. 39 degrees 59 minutes 07 seconds E. for a distance of 31.17 feet to an existing iron pipe a corner to the Atkins property then leaving the northern margin of State Road Number 1404

Thence N. 07 degrees 21 minutes 01 seconds E. for a distance of 71.35 feet to an existing iron pipe a corner in the Margaret Lisenbee southern boundary line

Thence S. 65 degrees 56 minutes 17 seconds W. for a distance of 243.07 feet with the Lisenbee southern boundary line to an existing iron pipe found Lisenbee southern corner

Thence N. 74 degrees 53 minutes 16 seconds W. for a distance of 102.74 feet to an existing iron pipe in the Lisenbee's western boundary line

Thence N. 74 degrees 53 minutes 16 seconds W. for a distance of 226.68 feet to an existing iron pipe Lisenbee northwest corner and Bradley southwest corner: a new line through the Bradley property

Thence N. 27 degrees 39 minutes 04 seconds E. for a distance of 231.78 feet to a 30" white oak tree corner. The southwest corner of the Arthur Williams property and a corner of the Great Meadows property: then with the Williams western boundary line and Great Meadows eastern boundary line

Thence N. 28 degrees 28 minutes 10 seconds W. for a distance of 556.91 feet to a point in the western boundary of the Williams property

Thence N. 38 degrees 28 minutes 10 seconds W. for a distance of 332.24 feet to a 1/2" existing iron pipe. A point in the line between Williams property and the Great Meadows property

Thence N. 38 degrees 28 minutes 10 seconds W. for a distance of 50.57 feet to a railroad spike found on the south edge of McDowell High School Road. State Road Number 1301: then with the southern edge of the pavement the following courses and distances

Thence S. 87 degrees 33 minutes 20 seconds E. for a distance of 241.24 feet

Thence S. 89 degrees 36 minutes 26 seconds E. for a distance of 24.04 feet

Thence N. 87 degrees 59 minutes 56 seconds E. for a distance of 25.10 feet

Thence N. 85 degrees 03 minutes 33 seconds E. for a distance of 24.84 feet

Thence N. 80 degrees 27 minutes 01 seconds E. for a distance of 24.87 feet

Thence N. 76 degrees 36 minutes 46 seconds E. for a distance of 24.81 feet

Thence N. 72 degrees 41 minutes 27 seconds E. for a distance of 24.81



feet Thence N. 68 degrees 08 minutes 47 seconds E. for a distance of 24.95  
feet Thence N. 64 degrees 27 minutes 12 seconds E. for a distance of 24.96  
feet Thence N. 63 degrees 37 minutes 14 seconds E. for a distance of 24.75  
feet Thence N. 64 degrees 30 minutes 59 seconds E. for a distance of 77.56  
feet Thence N. 65 degrees 05 minutes 56 seconds E. for a distance of 56.67  
feet Thence N. 64 degrees 43 minutes 07 seconds E. for a distance of 69.13  
feet Thence N. 67 degrees 27 minutes 49 seconds E. for a distance of 24.21  
feet to a point on the southern edge of McDowell High School Road then  
crossing State Road Number 1301 to a point in the back of the curb of the  
Five Lane Road known as U.S. Hwy. 70 U.S. Hwy 221 and N.C. Hwy 226  
Thence N. 11 degrees 41 minutes 12 seconds W. for a distance of 100.67  
feet to a point at the back of the curb of the aforesaid highways and running  
with the back of the curb the following courses and distances:  
Thence N. 27 degrees 59 minutes 25 seconds W. for a distance of 114.84  
feet Thence N. 29 degrees 55 minutes 09 seconds W. for a distance of 116.75  
feet Thence N. 34 degrees 14 minutes 30 seconds W. for a distance of 97.59  
feet Thence N. 37 degrees 58 minutes 42 seconds W. for a distance of 95.35  
feet Thence N. 41 degrees 37 minutes 25 seconds W. for a distance of 86.82  
feet Thence N. 45 degrees 13 minutes 17 seconds W. for a distance of 74.01  
feet to a point in the back of the curb and the northeast corner of the Troy  
Proctor property as recorded in the McDowell County Register of Deeds in Deed  
Book 280, page 286 and also being a corner of the Great Meadows property,  
said property being located over the end of a culvert underneath the  
aforesaid highways then continuing with Proctor and the Great Meadows  
boundary line:  
Thence S. 65 degrees 59 minutes 59 seconds W. for a distance of 212.27  
feet to a iron pipe found the southeast corner of the Proctor property then  
continuting with the Proctor property line the following courses and  
distances  
Thence N. 44 degrees 26 minutes 20 seconds W. for a distance of 43.86  
feet to an existing iron pipe  
Thence N. 44 degrees 52 minutes 23 seconds W. for a distance of 148.95  
feet to an existing iron pipe  
Thence N. 43 degrees 29 minutes 13 seconds E. for a distance of 103.33  
feet to an existing iron pipe in the Proctor northern boundary line and a  
common corner of the Gouge property. Then with the Gouge, Ledbetter, Parker,  
and Austin property the following courses and distances  
Thence N. 46 degrees 46 minutes 25 seconds W. for a distance of 63.27  
feet to an existing iron pipe  
Thence N. 46 degrees 40 minutes 56 seconds W. for a distance of 49.75  
feet to an existing iron pipe  
Thence S. 43 degrees 13 minutes 43 seconds W. for a distance of 13.59  
feet to an iron pipe set  
Thence N. 46 degrees 46 minutes 17 seconds W. for a distance of 25.00  
feet to an iron pipe set  
Thence S. 43 degrees 13 minutes 43 seconds W. for a distance of 88.29  
feet to an iron pipe set  
Thence N. 47 degrees 33 minutes 29 seconds W. for a distance of 50.81  
feet to an existing iron pipe  
Thence N. 47 degrees 33 minutes 29 seconds W. for distance of 338.34  
feet to an existing iron pipe  
Thence N. 47 degrees 40 minutes 35 seconds W. for a distance of 104.72  
feet to an existing iron pipe  
Thence N. 47 degrees 01 minutes 43 seconds W. for a distance of 211.23  
feet to a railroad spike set on the eastern edge of Peachtree Road, State  
Number 1220  
Thence with the eastern edge of Peachtree Road the following courses and  
distances  
Thence N. 19 degrees 00 minutes 14 seconds E. for a distance of 42.25  
feet Thence N. 26 degrees 12 minutes 42 seconds E. for a distance of 60.63  
feet Thence N. 39 degrees 38 minutes 58 seconds E. for a distance of 61.27  
feet Thence N. 51 degrees 13 minutes 18 seconds E. for a distance of 47.39  
feet Thence N. 13 degrees 52 minutes 00 seconds W. for a distance of 50.49  
feet crossing Peachtree Road to the back of the curb of the Five (5) Lane and  
runs then with the back of the curb the following courses and distances



feet Thence N. 29 degrees 15 minutes 28 seconds W. for a distance of 59.05  
feet Thence N. 27 degrees 34 minutes 59 seconds W. for a distance of 59.70  
feet Thence N. 24 degrees 34 minutes 56 seconds W. for a distance of 34.28  
feet Thence S. 63 degrees 58 minutes 32 seconds W. for a distance of 17.54  
feet leaving the back of the curb of the Five (5) Lane to an existing iron  
pipe and running with the Lewis southern, northern and western boundary lines  
Five (5) calls and distances as recorded in the McDowell County Register of  
Deeds in Deed Book 250, page 827  
feet Thence S. 63 degrees 58 minutes 32 seconds W. for a distance of 306.82  
feet to an existing iron pipe  
feet Thence N. 22 degrees 31 minutes 44 seconds W. for a distance of 397.58  
feet to an existing iron pipe  
feet Thence N. 65 degrees 41 minutes 50 seconds E. for a distance of 312.25  
feet to an existing iron pipe: said iron pipe being located S. 22 degrees 48  
minutes 26 seconds E. 466.90 feet from N.C.G. control monument "Darrell" then  
continuing with the Lewis northern line to the back of the curb on the Five  
Lane  
feet Thence N. 65 degrees 41 minutes 50 seconds E. for a distance of 14.59  
feet to a point in the back of the curb then with the back of the curb the  
following courses and distances:  
feet Thence N. 23 degrees 12 minutes 34 seconds W. for a distance of 115.69  
feet Thence N. 33 degrees 56 minutes 04 seconds W. for a distance of 65.47  
feet Then leaving the Five (5) Lane and running with the southern edge of the  
pavement the exit ramp to U.S. Hwy 70 the following courses and distances:  
feet Thence N. 43 degrees 32 minutes 52 seconds W. for a distance of 53.39  
feet Thence N. 52 degrees 15 minutes 21 seconds W. for a distance of 54.10  
feet Thence N. 60 degrees 51 minutes 29 seconds W. for a distance of 54.58  
feet Thence N. 73 degrees 12 minutes 51 seconds W. for a distance of 54.39  
feet Thence N. 83 degrees 08 minutes 53 seconds W. for a distance of 52.10  
feet Thence S. 87 degrees 40 minutes 58 seconds W. for a distance of 60.05  
feet to a point in the southern edge of U.S. Highway 70: then continuing  
with the southern edge of U.S. Hwy 70 the following courses and distances:  
feet Thence S. 73 degrees 31 minutes 06 seconds W. for a distance of 69.12  
feet Thence S. 72 degrees 21 minutes 36 seconds W. for a distance of 77.36  
feet Thence S. 61 degrees 05 minutes 03 seconds W. for a distance of 406.32  
feet Thence S. 60 degrees 55 minutes 29 seconds W. for a distance of 1795.83  
feet to a railroad spike set on the edge of U.S. Hwy 70  
feet Thence N. 29 degrees 04 minutes 31 seconds W. for a distance of 790.00  
feet crossing U.S. Hwy 70 to a 1 3/8" iron rod set in the Great Meadows  
Property  
feet Thence N. 61 degrees 22 minutes 43 seconds E. for a distance of 1398.26  
feet to a right-of-way monument in the western right-of-way of the new By-  
Pass now under construction  
feet Thence N. 05 degrees 35 minutes 06 seconds W. for a distance of 305.53  
feet with the western right-of-way of the new Marion By-Pass: to a monument  
in said right-of-way of the new By-Pass: then continuing with the western  
right-of-way of the By-Pass  
feet Thence N. 03 degrees 39 minutes 56 seconds E. for a distance of 156.05  
feet to a point in the center of Catawba River: then with the center line of  
Catawba River the following courses and distances  
feet Thence S. 72 degrees 16 minutes 27 seconds E. for a distance of 163.93  
feet Thence S. 72 degrees 16 minutes 27 seconds E. for a distance of 347.34  
feet Thence S. 66 degrees 53 minutes 42 seconds E. for a distance of 233.68  
feet Thence N. 85 degrees 39 minutes 25 seconds E. for a distance of 316.53  
feet then crossing U.S. Hwy 221 and N.C. Hwy. 226  
feet Thence N. 60 degrees 52 minutes 00 seconds E. for a distance of 555.27  
feet to a point in the center line intersection of Catawba River and Garden  
Creek then with the center line of Garden Creek, Great Meadows Corporation  
and Carl Hollifield the following course and distances thence S. 56 degrees  
22 minutes 14 seconds E. for a distance of 108.72 feet  
feet Thence S. 19 degrees 07 minutes 49 seconds E. for a distance of 133.14  
feet Thence S. 69 degrees 24 minutes 26 seconds W. for a distance of 70.00  
feet Thence S. 73 degrees 12 minutes 51 seconds W. for a distance of 54.39



feet Thence S. 17 degrees 54 minutes 35 seconds W. for a distance of 67.35

feet Thence S. 56 degrees 51 minutes 52 seconds E. for a distance of 101.50

feet Thence S. 07 degrees 44 minutes 24 seconds E. for a distance of 230.47

feet Thence S. 10 degrees 28 minutes 38 seconds W. for a distance of 85.86

feet Thence S. 13 degrees 41 minutes 09 seconds E. for a distance of 75.81

feet Thence S. 11 degrees 23 minutes 19 seconds W. for a distance of 216.06

feet Thence S. 40 degrees 21 minutes 38 seconds E. for a distance of 125.24

feet crossing Garden Creek Road, State Road Number 1506 and continuing with the center line of Garden Creek and with the following property owners: Frank White, Billy Poteat, Gilbert Hollifield, D. Harris, E.O. Hall, G.C. Norman, Brown Whitson, R. Patel the following courses and distances:

Thence S. 35 degrees 06 minutes 30 seconds E. for a distance of 263.92

feet Thence S. 46 degrees 23 minutes 43 seconds E. for a distance of 151.98

feet Thence S. 36 degrees 15 minutes 43 seconds E. for a distance of 97.08

feet Thence S. 23 degrees 10 minutes 36 seconds E. for a distance of 90.34

feet Thence S. 55 degrees 43 minutes 49 seconds E. for a distance of 117.50

feet Thence S. 32 degrees 10 minutes 30 seconds E. for a distance of 75.73

feet Thence S. 38 degrees 11 minutes 55 seconds E. for a distance of 125.54

feet Thence S. 39 degrees 31 minutes 38 seconds E. for a distance of 35.41

feet to a point in the center line of Garden Creek, leaving the center line of Garden Creek, corner of the W.R. Ledbetter property as recorded in the McDowell County Register of Deeds in Deed Book 334, page 285

Thence N. 57 degrees 27 minutes 45 seconds E. for a distance of 22.61

feet to an existing iron pipe a point in the northern boundary line of the W.R. Ledbetter property, then continuing with the Ledbetter northern boundary line

Thence N. 57 degrees 27 minutes 45 seconds E. for a distance of 147.83

feet to an existing iron pipe

Thence N. 57 degrees 27 minutes 45 seconds E. for a distance of 17.45

feet to a point on the southern edge of the pavement of Garden Creek Road, State Road Number 1506. Then with the southern edge of Garden Creek Road the following courses and distances

Thence S. 37 degrees 11 minutes 59 seconds E. 50.92 feet

Thence S. 38 degrees 51 minutes 03 seconds E. for a distance of 90.70

feet Thence S. 50 degrees 31 minutes 32 seconds E. for a distance of 45.94

feet to a steel nail set in the southern edge of Garden Creek Road and the northern boundary line of the Withrow property as recorded in Deed Book 169, page 610: then leaving Garden Creek Road

Thence S. 57 degrees 27 minutes 45 seconds W. for a distance of 183.86

feet with the northern boundary line of the Withrow property to a point in the center line of Garden Creek then with the center line of Garden Creek and owners Withrow, Ledbetter and Gouge the following courses and distances

Thence S. 61 degrees 45 minutes 45 seconds E. for a distance of 40.86

feet Thence S. 33 degrees 57 minutes 52 seconds E. for a distance of 211.69

feet Thence S. 59 degrees 05 minutes 49 seconds W. for a distance of 29.04

feet Thence N. 56 degrees 06 minutes 59 seconds E. for a distance of 14.13

feet Leaving the center line of Garden Creek to an existing iron pipe in the southern boundary line of the Gouge property as recorded in Deed Book 299, page 627

Thence N. 56 degrees 06 minutes 59 seconds E. for a distance of 251.05

feet to an existing iron pipe in the western margin of Garden Creek Road then with the southern margin of Garden Creek Road the following courses and distances

Thence S. 18 degrees 52 minutes 17 seconds E. for a distance of 35.57

feet Thence S. 09 degrees 03 minutes 39 seconds E. for a distance of 102.25

feet Thence S. 25 degrees 04 minutes 55 seconds E. for a distance of 98.97

feet Thence S. 31 degrees 50 minutes 44 seconds E. for a distance of 82.59

feet



feet Thence S. 37 degrees 48 minutes 37 seconds E. for a distance of 88.22 feet

feet Thence S. 60 degrees 20 minutes 01 second E. for a distance of 132.02 feet

feet Thence S. 35 degrees 32 minutes 15 seconds E. for a distance of 179.69 feet

Thence S. 47 degrees 53 minutes 17 seconds E. for a distance of 223.09 feet to a steel nail set on the eastern margin of Garden Creek Road, then leaving the Garden Creek Road and running with the Ed Buchanan southeastern boundary line

Thence S. 47 degrees 52 minutes 48 seconds W. for a distance of 196.92 feet to an existing iron pipe in the western boundary line of the Garden Creek Baptist Church property as recorded in Deed Book 294, page 184

Thence S. 47 degrees 52 minutes 48 seconds W. for a distance of 24.08 feet to a point in the center of Garden Creek, thence with the center of line of Garden Creek and owners Hemphill, Patton and Huskins eastern boundary lines the following courses and distances

feet Thence S. 36 degrees 34 minutes 08 seconds E. for a distance of 116.55 feet

feet Thence S. 40 degrees 34 minutes 09 seconds E. for a distance of 103.83 feet

feet Thence S. 24 degrees 23 minutes 47 seconds E. for a distance of 154.50 feet

feet Thence S. 37 degrees 04 minutes 47 seconds E. for a distance of 85.15 feet

feet Thence W. 44 degrees 05 minutes 11 seconds E. for a distance of 97.07 feet leaving the center line of Garden Creek and running with the northern line of the Hollar property

Thence N. 54 degrees 19 minutes 59 seconds E. for a distance of 130.13 feet to a steel nail set in the south edge of Garden Creek Road then with the southern edge of Garden Creek Road the following courses and distances

feet Thence S. 28 degrees 44 minutes 26 seconds E. for a distance of 51.58 feet

feet Thence S. 38 degrees 19 minutes 58 seconds E. for a distance of 84.93 feet

feet Thence S. 49 degrees 45 minutes 59 seconds E. for a distance of 123.26 feet

feet Thence S. 61 degrees 02 minutes 42 seconds E. for a distance of 93.97 feet

feet Thence S. 68 degrees 42 minutes 17 seconds E. for a distance of 92.40 feet

feet Thence S. 52 degrees 28 minutes 34 seconds E. for a distance of 43.29 feet

Thence S. 01 degrees 35 feet 01 minutes W. for a distance of 47.83 feet

feet Thence S. 47 degrees 31 minutes 52 seconds W. for a distance of 71.44 feet

feet Thence S. 48 degrees 25 minutes 01 second W. for a distance of 97.94 feet

feet Thence S. 18 degrees 34 minutes 45 seconds W. for a distance of 40.42 feet to a railroad spike set in the western edge of Garden Creek Road, then crossing Garden Creek Road and running with the eastern line of the Bradley lease line the following courses and distances

feet Thence S. 17 degrees 50 minutes 12 seconds E. for a distance of 91.66 feet to a point

feet Thence S. 17 degrees 50 minutes 12 seconds E. for a distance of 705.86 feet to a 3/4" iron pipe set

Thence continuing with the Bradley lease line to the northwest corner of the National Community Centers property

feet Thence S. 75 degrees 53 minutes 51 seconds W. for a distance of 94.78 feet to a point on the side of a rock outcropping

Then with the National Community Centers eastern boundary line the following courses and distances

feet Thence S. 00 degrees 19 minutes 19 seconds W. for a distance of 24.77 feet

feet Thence S. 76 degrees 04 minutes 32 seconds W. for a distance of 14.00 feet

feet Thence S. 16 degrees 05 minutes 09 seconds E. for a distance of 125.86 feet to an existing iron pipe on the western slope of a steep embankment east of the Hardee's property

feet Thence N. 75 degrees 53 minutes 51 seconds E. for a distance of 65.00 feet to an existing iron pipe

feet Thence S. 10 degrees 26 minutes 09 seconds E. for a distance of 150.00 feet to an existing iron pipe the northeast corner of the Bradley property as recorded in Deed Book 343, page 887

feet Thence S. 12 degrees 44 minutes 15 seconds E. for a distance of 174.91 feet with the Bradley eastern boundary line to a 3/4" iron pipe set. A corner in the Betsy Nichols western boundary line and the southeast corner of the Bradley lot then with the Bradley lot and Nichols line

feet Thence S. 75 degrees 53 minutes 51 seconds W. for a distance of 43.00 feet to a 3/4" iron pipe set in the Bradley southern boundary line and the Nichols line then with a new line through the Nichols property and the Gibson



property the following courses and distances

feet Thence S. 16 degrees 05 minutes 30 seconds E. for a distance of 90.87  
feet Thence S. 19 degrees 51 minutes 40 seconds E. for a distance of 40.81  
feet Thence S. 21 degrees 43 minutes 34 seconds E. for a distance of 41.96  
feet Thence S. 24 degrees 24 minutes 52 seconds E. for a distance of 41.64  
feet Thence S. 26 degrees 33 minutes 47 seconds E. for a distance of 42.40  
feet Thence S. 28 degrees 56 minutes 06 seconds E. for a distance of 41.74  
feet Thence S. 31 degrees 05 minutes 05 seconds E. for a distance of 42.32  
feet Thence S. 34 degrees 01 minutes 44 seconds E. for a distance of 42.68  
feet Thence S. 35 degrees 59 minutes 12 seconds E. for a distance of 41.99  
feet Thence S. 39 degrees 03 minutes 34 seconds E. for a distance of 44.18  
feet Thence S. 41 degrees 25 minutes 38 seconds E. for a distance of 44.07  
feet Thence S. 43 degrees 55 minutes 39 seconds E. for a distance of 42.85  
feet Thence S. 45 degrees 57 minutes 29 seconds E. for a distance of 42.00  
feet Thence S. 49 degrees 29 minutes 18 seconds E. for a distance of 309.22  
feet Thence S. 49 degrees 29 minutes 18 seconds E. for a distance of 83.41  
feet to a 3/4" iron pipe set in the existing City limit line, then with the  
existing City Limit line the following courses and distances  
feet Thence S. 42 degrees 17 minutes 06 seconds W. for a distance of 46.78  
feet to an existing iron pipe  
feet Thence S. 49 degrees 38 minutes 00 seconds E. for a distance of 95.36  
feet to an existing iron pipe  
feet Thence S. 42 degrees 17 minutes 06 seconds W. for a distance of 100.00  
feet to an existing iron pipe  
feet Thence S. 49 degrees 38 minutes 00 seconds E. for a distance of 150.00  
feet to a concrete monument found  
feet Thence S. 42 degrees 17 minutes 06 seconds W. for a distance of 52.65  
feet to a concrete monument found in the eastern margin of U.S. Hwy. 70, U.S.  
Hwy 221 and N.C. Hwy 226 as surveyed by others the following courses and  
distances  
feet Thence S. 49 degrees 25 minutes 47 seconds E. for a distance of 106.94  
feet Thence S. 51 degrees 04 minutes 52 seconds E. for a distance of 174.50  
feet Thence S. 52 degrees 44 minutes 31 seconds E. for a distance of 87.71  
feet Thence S. 53 degrees 04 minutes 33 seconds E. for a distance of 84.11  
feet Thence S. 53 degrees 04 minutes 33 seconds E. for a distance of 307.48  
feet Thence S. 53 degrees 04 minutes 33 seconds E. for a distance of 35.15  
feet Thence S. 53 degrees 04 minutes 33 seconds E. for a distance of 163.72  
feet Thence S. 53 degrees 26 minutes 16 seconds E. for a distance of 67.27  
feet Thence S. 54 degrees 29 minutes 10 seconds E. for a distance of 96.85  
feet Thence S. 55 degrees 45 minutes 58 seconds E. for a distance of 47.27  
feet Thence S. 56 degrees 22 minutes 28 seconds E. for a distance of 60.51  
feet Thence S. 57 degrees 51 minutes 46 seconds E. for a distance of 83.04  
feet Thence S. 58 degrees 09 minutes 53 seconds E. for a distance of 62.54  
feet Thence S. 58 degrees 22 minutes 22 seconds E. for a distance of 389.55  
feet Thence S. 58 degrees 22 minutes 40 seconds E. for a distance of 200.18  
feet Thence S. 59 degrees 24 minutes 52 seconds E. for a distance of 66.94  
feet Thence S. 60 degrees 25 minutes 04 seconds E. for a distance of 30.43  
feet to an existing iron pipe, said iron pipe being located S. 71 degrees 57  
minutes 27 seconds E. a distance of 299.44 feet from N.C.G. Control Monument  
"Machine", then continuing with the City Limit boundary line and leaving the  
margin of the highway the following courses and distances and running with



the Hollar boundary lines

feet Thence N. 06 degrees 50 minutes 40 seconds E. for a distance of 69.04

feet Thence N. 03 degrees 12 minutes 16 seconds W. for a distance of 89.59

feet Thence N. 75 degrees 17 minutes 18 seconds E. for a distance of 124.73

feet Thence S. 16 degrees 05 minutes 22 seconds E. for a distance of 236.99

feet Thence S. 17 degrees 51 minutes 36 seconds W. for a distance of 56.32  
feet to an existing iron pipe in the northern margin of the aforesaid highway  
then crossing said highway

feet Thence S. 17 degrees 51 minutes 36 seconds W. for a distance of 76.76  
feet to a point in the existing City Limits boundary continuing with the  
existing City Limits boundaries the following courses and distances

feet Thence N. 65 degrees 59 minutes 40 seconds W. for a distance of 55.32

feet Thence S. 86 degrees 34 minutes 02 seconds W. for a distance of 298.99

feet Thence N. 72 degrees 17 minutes 56 seconds W. for a distance of 112.55

feet Thence S. 72 degrees 07 minutes 47 seconds W. for a distance of 99.51

feet Thence S. 01 degree 32 minutes 33 seconds E. for a distance of 41.46

feet Thence S. 01 degree 32 minutes 33 seconds E. for a distance of 22.76

feet Thence S. 81 degrees 37 minutes 00 seconds E. for a distance of 8.86

feet Thence S. 66 degrees 18 minutes 06 seconds E. for a distance of 103.00

feet Thence S. 02 degrees 24 minutes 08 seconds E. for a distance of 17.04

feet Thence S. 39 degrees 18 minutes 40 seconds E. for a distance of 93.07

feet Thence S. 12 degrees 09 minutes 34 seconds E. for a distance of 42.05

feet Thence S. 38 degrees 05 minutes 50 seconds E. for a distance of 80.40

feet Thence S. 08 degrees 14 minutes 58 seconds E. for a distance of 150.98

feet Thence S. 36 degrees 28 minutes 40 seconds E. for a distance of 76.76

feet Thence S. 06 degrees 29 minutes 22 seconds W. for a distance of 32.14

feet Thence S. 27 degrees 03 minutes 08 seconds E. for a distance of 43.64

feet Thence S. 21 degrees 41 minutes 04 seconds E. for a distance of 51.33

feet Thence S. 45 degrees 48 minutes 48 seconds E. for a distance of 63.79

feet Thence S. 53 degrees 10 minutes 28 seconds E. for a distance of 19.73

feet Thence S. 58 degrees 23 minutes 27 seconds W. for a distance of 428.08

feet Thence S. 22 degrees 53 minutes 41 seconds E. for a distance of 46.24

feet Thence S. 23 degrees 32 minutes 13 seconds E. for a distance of 127.48

feet Thence S. 33 degrees 45 minutes 43 seconds E. for a distance of 62.20

feet Thence S. 48 degrees 35 minutes 33 seconds E. for a distance of 30.35

feet Thence S. 58 degrees 59 minutes 09 seconds W. for a distance of 536.71  
feet to an existing concrete monument old City Limit marker on the eastern  
slope of Pheonix Knob

feet Thence S. 52 degrees 27 minutes 25 seconds W. for a distance of 365.44  
feet to the point of **BEGINNING** contains 209.4+- acres as surveyed by Suttles  
Surveying, P.A. and shown on a map captioned, "City of Marion Extension of  
City Limits" and dated April 24, 1989.

**Section 2.** That the City Council does hereby specifically find and declare  
that the above described territory meets the requirements of G.S. 160A-36, in that:

1. The area is adjacent and contiguous, as defined by G.S. 160A-41 (1) as of  
the 7th day of March, 1989, the date upon which this annexation proceeding  
was begun.

2. The aggregate external boundary line of the area to be annexed is  
39,806.06 feet, of which 6,449.90 feet of 16.20% coincides with the City  
boundary. Therefore, at least one eighth of said external boundary coincides



with the City Boundary.

3. No part of the area to be annexed is included within the boundary of another incorporated municipality.

4. The area to be annexed is developed for urban purposes in that 84.84% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes, and 66.02% of the total of residential and vacant acreage consists of lots and tracts five acres or less in size.

Section 3. That it is the purpose and intent of the City of Marion, to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on the 21st of March, 1989, and filed in the offices of the Clerk for public inspection.

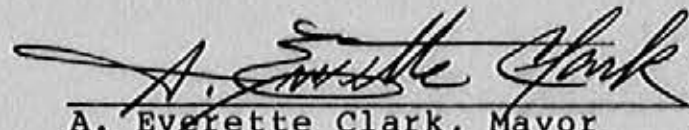
Section 4. That the City Council does hereby specifically find and declare that, on the effective date of annexation prescribed in Section 1. hereof, the City of Marion will have water and sewer available to the annexation area, and that sufficient funds have been appropriated for water and sewer service connections and operations costs for both utilities.

Section 5. That from and after the effective date of this annexation, the territory annexed 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.

Section 6. That the newly annexed territory described hereinabove shall be subject to city taxes according to G.S. 160A-58.10.

Section 7. That the Mayor and City of Marion shall cause an accurate map of the annexed territory described in Section 1. hereof, together with a duly certified copy of this ordinance, to be recorded in the office of the Register of Deeds of McDowell County, and in the offices of the Secretary of State in Raleigh, such a map shall also be delivered to the City/County Board of Elections as required by G.S. 163-288.1.

ADOPTED this the 16th day of May, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
Earl Daniels, City Manager

This portion of the Public Hearing was closed.

**PUBLIC HEARING - ZONING - CLINCHFIELD, 5-LANE, AND LOWES AND FIRST UNION:** The City Manager opened a Public Hearing for the purpose of discussing the zoning of the following areas: Clinchfield, 5-Lane and Lowes and First Union.

**1. ZONING OF PROPERTY BELONGING TO RISBERTH BROOKS AND FIRST UNION NATIONAL BANK LOCATED ON HWY 70:** Mr. Robin Hood, Chairman of the Planning and Zoning Board stated that the board would like to recommend that the area located on Highway 70 East belonging to Risberth Brooks and First Union National Bank be zoned C-2, General Business.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to zone the above described property as C-2, General Business.

**2. ZONING OF THE PROPERTY LOCATED IN THE CLINCHFIELD ANNEXATION AREA:** Mr. Robin Hood presented a map outlining the proposed zoning to the City Council for their approval. The floor was opened for discussion.

Ms. Ruth McKinney appeared before Council and presented a petition from several residents in the Clinchfield area concerning a diesel repair shop to be located in their neighborhood. Ms. McKinney stated that they were not opposed to the business, only the noise and pollution from the business. Ms. McKinney stated that the residents would like the City to rezone the area as R-2, General Residential.

Mr. Ronnie Burgin, owner of the proposed diesel shop stated that he would be opening a diesel repair shop and twenty-four hour wrecker service. He stated that he told the property owners what he had proposed to build when he bought it. He



stated that he had heard no opposition until last weekend after the property had been zoned. Mr. Burgin stated that he would have a fenced in area to be used for storage, but would not have a junk yard.

The City Manager stated that until June 30, 1989, the City would not have any authority in the area. He stated that if the area were to be zoned as R-2, General Residential, the shop could remain in operation as a "non-conforming" use of the property.

Ms. McKinney asked if the property owners had no rights in the matter at all.

Councilman Little stated that the County did not have a zoning ordinance in effect and that once the property came into the City, it would be zoned and protect the residents in the future. He stated that the law would not allow the City to close a business due to zoning.

Councilman Stronach stated that there would be ordinances concerning noises, hours of operation, and other nuisances.

Ms. Glennys B. Gilbert stated that she had a "Restrictive Covenant" deed to her property. She stated that she was under the impression that all of the property in that area had such deeds.

Councilman Little stated that he could not tell Ms. Gilbert if that restriction could prohibit the business or not, that it would depend on Mr. Burgin's deed. Mr. Burgin stated that the deed to his property contained no restrictions.

Mr. Burgin stated that he asked if the area was restricted before he bought it. He stated that the area had been used as a commercial parking lot in the past. He stated that he would be willing to sell his property to the residents or any one else for what expenses he had in the property.

A question was asked if the property was zoned as R-2, General Residential, and the business closed would a similar business be able to come back into the area. Mrs. Lovina Smith stated that if the business was closed down for twelve months, after that time, the property could only be used as residential. She stated also that if Mr. Burgin sold the business, the new owner would be able to have the business as long as he did not close down for twelve months or longer.

Mr. Francis O'Buckley asked a question about fire in a business, could it be rebuilt? Mrs. Lovina Smith stated that if the business was damaged in excess of sixty percent, it could not be rebuilt. Mr. O'Buckley expressed concerns if his business burned. He stated that the property where his business was located had been zoned as R-2, General Residential, even though his business would be allowed to continue, he would not be able to expand in any way. He stated that he would like to request that the property be zoned C-2, General Business so that he would be able to expand his business if he needed to.

Mr. Woody Harton, North Carolina Department of Natural Resources and Community Development stated that the City would not be able to zone his property as C-2 due to the fact that they would be "Spot Zoning" the property and that is illegal. He stated that if the property were to be zoned as C-2, it would open up the property for additional uses allowed with commercial zoned property. Mr. Harton stated that Mr. Burgin's property could be zoned as C-2 because it was adjacent to industrial property.

Ms. Hattie Greene asked if the parking lot on Mr. Burgin's property (on Branch and Hill Streets) would be zoned as C-2, General Business? She was told that it would be. Ms. Greene stated that she would like to have the area zoned residential so that it would remain quiet. Ms. Greene was informed that it was a common practice to zone property fronting on a highway as commercial or industrial.

Mr. Burgin stated that he had talked with Mr. Daniels last year about the business and had been told it would be permitted. He asked if the noise from the Burlington Plant bothered the neighborhood? He was told it did not.

Councilman Ayers stated that if the property next to Ms. Gilbert and Ms. Greene's homes were to be sold, until the annexation came into effect that any type of business or industry could come next door to them.

Councilman Cross asked if the residents understood that the City had no authority outside the City Limits.

Councilman Little stated that he would like to make a motion that the zoning be accepted as proposed with the exception of the area belonging to Mr. Burgin being zoned as R-2 General Residential instead of C-2 General Business. The motion was seconded by Councilman Ayers.

Mr. Burgin stated that he could not understand why the problem with his business had come up all of a sudden. He stated that he did not feel it would be fair to



zone his property as R-2 General Residential. He stated that he wished the residents had questioned the use of the property when he had bought it and he would not have put additional money in the property to develop it.

Mr. Rick Moore stated that he would like to make an additional request that the property known as High Street be zoned as R-1, Single Family Residential rather than R-2, General Residential.

Councilman Little stated that he would like to amend his motion to include High Street as being zoned R-1 Single Family Residential rather than R-2 General Residential. Councilman Ayers seconded the amended motion.

Councilman Cross stated that he would like to make a motion to table the motion made by Councilman Little until the next meeting so that the City Council could go out and look at the areas to be zoned. The motion was seconded by Councilman Stronach. The vote was unanimous to table the motion by Councilman Little until the next meeting.

**3. ZONING OF PROPERTY LOCATED IN THE 5-LANE ANNEXATION AREA:** Mr. Robin Hood stated that the Planning/Zoning Board would like to recommend that the area contained in the Five Lane annexation be zoned as C-2, General Business with the following exceptions:

1. M-1, Industrial: Tax Map 46C, Block 1 Lots 2 and 3. Tax Map 47C, Block 1, Lots 2, 3, 3A, 3B, 3C, and 4 belonging to Superior Machine Company.

2. R-1, Single Family Residential: Tax Map 43C, Block 1, Lot 11B belonging to Mr. Hurman Huffman; Tax Map 43C, Block 1, Lot 11C belonging to Mr. John Cross; Tax Map 43C, Block 1, Lot 12 belonging to Mr. C.D. Blanton (Meredith College); Tax Map 43C, Block 1, Lot 12J belonging to Mr. Michael McCall; Tax Map 43C, Block 1, Lot 12K belonging to Mr. Ray Buchanan; Tax Map 43C, Block 1, Lot 19 belonging to Mr. George Butler; Tax Map 43C, Block 1, Lot 20 belonging to Mr. Lynn Collins; Tax Map 43C, Block 1, Lot 21 belonging to Mr. Frank Goldsmith Jr.; and Tax Map 43C, Block 1, Lot 22 belonging to Dr. R.S. McCall.

3. R-2 General Residential: Tax Map 43C, Block 1, Lot 17 belonging to Mr. Karl Brown; Tax Map 46C, Block 1, Lot 1 belonging to Mr. Karl Brown; Tax Map 49C, Block 1, Lot 4 belonging to Ms. Selena Huskins; Tax Map 54C, Block 1, Lot 4 belonging to Dorothy Harris; Tax Map 54C, Block 1, Lot 5, E. O. Hall Jr.; Tax Map 54C, Block 1, Lot 6 belonging to Mr. Grover Norman; Tax Map 55C, Block 5, Lot 8 belonging to Mr. Sam Parker; Tax Map 55C, Block 5, Lot 9 belonging to Mr. Kyle Ledbetter; Tax Map 55C, Block 5, Lot 12 and 13 belonging to Mr. Troy Proctor; Tax Map 56C, Block 1, Lot 2 belonging to Mr. David Bradley; Tax Map 56C, Block 1, Lot 3 belonging to Ms. Fleta T. Lissenbee; Tax Map 57C, Block 1, Lot 1 belonging to W. W. Greene; Tax Map 57C, Block 1, Lot 2 belonging to R.M. Dark; Tax Map 57C, Block 1, Lot 3, S. A. Massey; Tax Map 57C, Block 1, Lot 4, belonging to Frank Pyle; Tax Map 57C, Block 1, Lot 5 belonging to Ms. Doris Hill; Tax Map 57C, Block 1, Lot 6 belonging to N. G. Earley; Tax Map 57C, Block 1, Lot 7 belonging to Guy S. Kirby; Tax Map 57C, Block 1, Lot 8 belonging to Ms. Edna McFalls; Tax Map 57C, Block 1, Lot 9 belonging to Mr. Willis Trusdale; Tax Map 57C, Block 1, Lot 10 belonging to Mr. Mike Miller; Tax Map 57C, Block 1, Lot 11 belonging to Mr. Donald Ramsey; Tax Map 57C, Block 1, Lot 12 belonging to Mr. Bhula Diah; Tax Map 57C, Block 1, Lot 13 belonging to Marion Fabrics; Tax Map 57C, Block 1 Lot 14 belonging to Ms. Rhoda Ezell; Tax Map 57C, Block 1, Lot 15 belonging to Mr. James Suttles; Tax Map 57C, Block 1, Lot 16 belonging to Ms. Locky Wilson; Tax Map 57C, Block 1, Lot 17 belonging to Mr. J.P. Hennessee; Tax Map 57C, Block 1, Lot 18 belonging to Mr. Robert McKinney; Tax Map 57C, Block 1, Lot 19 belonging to Ms. Madolyn Christie; Tax Map 57C, Block 1, Lot 20 belonging to Mr. Thomas Hollingsworth, Jr.; Tax Map 57C, Block 1, Lot 21 belonging to Ms. Madolyn Christie; Tax Map 57C, Block 1, Lot 22 belonging to Ms. Dorothy Glover; Tax Map 57C, Block 1, Lot 23 belonging to Ms. Laura Walker; Tax Map 57C, Block 1, Lot 24 belonging to Ms. Charlotte McKinney; Tax Map 57C, Block 1, Lot 25 belonging to Mr. Harold Buchanan; Tax Map 57C, Block 1, Lot 26 belonging to Mr. Thomas Hollingsworth Jr.; Tax Map 57C, Block 1, Lot 27 belonging to Mr. Robert Hennessee; Tax Map 57C, Block 1, Lot 28 belonging to Mr. Norman Boyter; Tax Map 57C, Block 1, Lot 29 belonging to Mr. J. Walter Bagwell; Tax Map 57C, Block 1, Lot 30 belonging to Ms. Madolyn Christie; Tax Map 57C, Block 1, Lot 31 belonging to Ms. Madolyn Christie; Tax Map 57C, Block 1, Lot 32 belonging to Ms. Madolyn Christie; and Tax Map 57C, Block 2, Lot 1 belonging to Ms. Nell Hollifield.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to zone the 5-Lane property as recommended by the Planning/Zoning Board.

**PUBLIC HEARING - PROPOSED MUNICIPAL SERVICE DISTRICT:** Mayor Clark asked Mr. Tony Lynch, President, Downtown Business Association to explain exactly what the Municipal Service District would accomplish for the downtown.

Mr. Lynch stated that the money from the additional fifteen percent tax to be levied on the downtown businesses would be used directly in the downtown for



projects sponsored by the DBA, to buy additional benches and planters, for the salary for the director, and other projects sponsored by the DBA.

Mrs. Lois Hensley of Hensley's Studio and Village Fashions asked who would put the limit on the tax. Mrs. Hensley was informed that the City Council would limit the tax. She was informed that if approved, the agreement was for a period of three years and the tax could not be increased during that time. At the end of the three years, the tax could also be eliminated.

Mrs. Hensley asked who determined the boundaries for the district. She stated that she was a member of the association, but had yet to receive a benefit from the association. She stated that the improvements to her property had been done by money from her own pocket. She stated that the boundary came down and picked up her business, but did not come down that far on the other side of the street.

Mrs. Lee Lynch, Downtown Development Director stated that the boundaries had been set by a committee from the Association. She stated that when the Department of Human Resources looked at their proposal, they suggested that the boundaries be closed in more tightly. Mrs. Lynch stated that the businesses on the opposite side of the street from Mrs. Hensley's business had been included initially, but were left out in the final draft due to the large percentage of residential lots in that particular block. Mrs. Lynch stated that as far as they could, they tried to follow the natural boundaries of the blocks and streets to be included.

Mayor Clark stated that if the proposal was accepted that the

persons in the downtown area would have more say as to how the money was spent. Mr. Rick Moore added that once you paid the tax, you were automatically a member of the association.

Mr. Hugh Franklin stated that his business did not get any help directly from the Association, but that he felt that the persons in the downtown area had to work together to benefit and make the downtown more attractive.

Mr. Ed Rankin asked why they did not come down the opposite end of Main Street to include his business. Mrs. Lynch stated that they had been advised to start small and then add to the district as time would allow.

Mr. Red Walker stated that he felt that the areas had been "spot picked" because the boundary came down to just include his property. He stated that he felt it should be fair.

Mayor Clark asked the procedure to enlarge the district. Mr. Woody Harton stated that proposals would have to be carried out similar to those of an annexation. He stated that a Public Hearing would have to be held and mailed notices to the property owners would have to be included.

Mr. Clyde Shaw of Etta Packaging stated that he would like for the Council to know that Etta was dedicated to helping the downtown. He stated that as recently as last weekend, they had donated the use of their parking lot so that the Downtown could close off a street for the cart race, however his company would not benefit from the Municipal Services District and he would like to request that they be removed from the list to be included. Mr. Shaw stated that with their recent additions to the plant, they would be the major tax payer of the district and would receive no benefits whatsoever.

Mr. Tony Lynch stated that he would be the first to admit that Etta Packaging helped the Downtown Business Association but he did not feel they should be eliminated from the tax. He stated that once deletions were made, everyone would want to be deleted and no one would be left.

Mrs. Lois Hensley asked how the Association arrived at the fifteen percent tax. Mr. Lynch stated that the amount was compared to other towns and that figure was one of the lowest for towns relative to the size of Marion.

Councilman Ayers made a motion to delete Etta Packaging and Hensley's Studio/Village Fashions from the proposed Municipal Service District and to adopt the Resolution and Agreement.

Councilman Little stated that he was not in favor of voting for the removal of Etta Packaging from the District, but was

in favor of the District.

Councilman Ayers withdrew his motion so that the issues could be voted for separately.

Councilman Ayers made a motion to exclude Etta Packaging and Hensley's Studio/Village Fashions from the proposed Municipal Services District. The motion was seconded by Councilman Cross. The vote was as follows: Ayes: Councilmen Ayers, Stronach, Cross and Tyler. Noes: Councilman Little.



Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution as re-defined:

**RESOLUTION ESTABLISHING A DOWNTOWN  
MUNICIPAL SERVICE DISTRICT**

WHEREAS, the City of Marion desires to stimulate and promote capital investment in all types of development in the Downtown area; and

WHEREAS, the Marion Downtown Business Association Inc., (DBA) was incorporated and organized to promote, encourage and assist revitalization and economic health and stability of the Downtown Area; and

WHEREAS, the City of Marion wishes to compensate DBA for its services in furtherance of these development purposes from a municipal service district tax, levied pursuant to North Carolina General Statute 160A-542.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARION THAT:

1. A finding is made in accordance with North Carolina GS 160A-536 that the downtown revitalization functions are needed in the Downtown Area to demonstrably greater extent than the remainder of the City, in that the area described in the attached Municipal Service District Map contains a greater concentration of commercial establishments than does the remainder of the City; is the commercial and social center of the City; and presently contains the highest percentage of vacant or under-utilized commercial properties in the City.
2. An additional property tax of \$.15 (fifteen cents) will be levied effective July 1, 1989 upon commercial property only in the defined municipal service district.
3. The area outlined in Exhibit A to the Municipal Service District Report for the Downtown Marion Area is hereby designated as the Downtown Municipal Service District in accordance with Article 23 of the North Carolina General Statutes.

ADOPTED this the 16th day of May, 1989.

ATTEST: (SEAL)

City of Marion

City Clerk

By:

Mayor

R-16-05-89-01

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to enter into the following agreement with the Downtown Business Association for the Municipal Service District:

**SERVICES AGREEMENT BETWEEN THE CITY OF MARION AND THE  
MARION DOWNTOWN BUSINESS ASSOCIATION INC.**

**PART I - STATEMENT OF AGREEMENT**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1989 by and between the CITY OF MARION, North Carolina (hereinafter called the "City of Marion") and the MARION DOWNTOWN BUSINESS ASSOCIATION, INC., a nonprofit corporation organized and existing under the laws of the State of North Carolina (hereinafter called "DBA").

**WITNESS THAT**

WHEREAS, the City of Marion has, pursuant to provisions of Article 23, Chapter 160A of the North Carolina General Statutes, defined and established a municipal services district consisting of all property within an area delineated on Exhibit "A" to this agreement; and

WHEREAS, the DBA was incorporated and organized to promote, encourage and assist the revitalization and economic health and stability of the above-mentioned municipal service district; and

WHEREAS, the City of Marion desires to utilize DBA to stimulate and promote capital investment in all types of development in the municipal services district, including, but not limited to, residents commercial office, retail, and industrial



land uses, and

WHEREAS, the City of Marion wishes to compensate DBA for its services in furtherance of these development purposes from the municipal services district tax levied pursuant to North Carolina General Statute 160A-542;

NOW, THEREFORE, the parties hereto do mutually agree to the requirements and provisions of this contract as follows:

#### PART II - SCOPE OF SERVICES

The services of DBA shall be directed to the following goals:

- 1) DBA shall promote, encourage, and assist the revitalization and the economic health and stability of the above mentioned municipal services district of Marion, including engaging in or assisting any "downtown revitalization project" as defined in Section 160A-536 of the North Carolina General Statutes.
- 2) DBA shall promote, encourage or assist any community development, urban development, planning historic preservation or other similar public enterprise in or directly related to the municipal services district.
- 3) DBA will provide and perform all services, facilities, functions and activities, within the reasonable bounds defined by its resources and budgetary considerations, necessary to the economic development of the municipal services district, and within the scope of its downtown revitalization function as provided by Section 160A-536 of the North Carolina General Statutes.

#### PART III - SCHEDULE OF PERFORMANCE

The services of DBA, as outlined in PART III - SCOPE OF SERVICES, are to commence after the date of execution of this contract and shall be undertaken and completed in such sequence and in such manner to assure their success in light of the purpose of this contract and the City of Marion's commitment to appropriate economic development in the downtown area.

It is understood by both parties that this contract contains a ninety (90) day waiver from the date of execution. Should the City of Marion and DBA be unable to concur on the implementation of the program, this contract shall terminate sixty (60) days after the date of execution. The City of Marion shall indicate this termination in writing to the DBA not less than ten (10) working days prior to the end of the waiver period. In the event of such a termination of this contract, the City of Marion shall be liable for only such expenses as were necessary in order to permit the operation of this contract through said waiver period.

#### PART IV - ACHIEVEMENT AND PERFORMANCE MONITORING

DBA shall prepare and submit annual progress reports from its Executive Director on its principal developmental activities, including a final report for each fiscal year under the program as outlined in the SCOPE OF SERVICES. This report shall accurately and comprehensively reflect DBA's progress in fulfilling requirements set forth in the SCOPE OF SERVICES and SCHEDULE OF PERFORMANCE and the extent to which achievement and performance objectives have been met. This progress report shall provide both qualitative and quantitative information and be provided in a form suitable for reproduction.

#### PART V - COMPENSATION AND METHOD OF PAYMENT

The City of Marion agrees to compensate DBA the total sum of monies collected from the municipal services district tax levy (referred to above). A detailed budget reflecting the total dollar amount of this contract will be attached hereto and upon approval of that budget and a refined scope of services by the City Council, will become a part hereof. Upon such approval, the Director of Finance will disburse the first installment of monies as contemplated by that budget.

#### PART VI - TERMS AND CONDITIONS

This Agreement, which expires June 30, 1993, is contemplated as the first of a series of contracts which will be negotiated by mutual consent for succeeding fiscal years thereafter.

It is understood by both parties that the effective date of this Agreement shall not be valid until such time as the City Council of the City of Marion formally approves this contract for execution.

It is understood that the accounting and fiscal management procedures applicable to this contract shall be prescribed by the Director of Finance for the City of Marion.



PART VII - ABOLITION OF THE MUNICIPAL SERVICE DISTRICT SHOULD THE MARION DOWNTOWN BUSINESS ASSOCIATION INC. DISSOLVE

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1989, by and between the CITY OF MARION, North Carolina and the MARION DOWNTOWN BUSINESS ASSOCIATION INC., will expire upon written notification from the DBA to the CITY OF MARION of the corporation's dissolution. In the event of such a termination of this contract, the DBA shall be liable for only such expenses as were necessary in order to conclude all business transactions. The DBA shall indicate this termination in writing to the City of Marion not less than ten (10) working days prior to the date of dissolution. All services of the DBA will cease upon written notification of Council.

A report with final accounting will also be given will also be given to Council not less than ten (10) working days prior to the date of dissolution. Council upon finding there is no longer a need for the Municipal Service District will abolish the district in accordance with the requirements of General Statutes 160A-541. This statute sets forth the process by which a Municipal Service District is abolished.

IN WITNESS WHEREOF, the City of Marion and the Marion Downtown Business Association, Inc., have entered into this contract as of the date first above written.

ATTEST:

CITY OF MARION, NORTH CAROLINA

(SEAL)

  
City Clerk

BY   
Mayor

ATTEST:

CORPORATION

MARION DOWNTOWN BUSINESS  
ASSOCIATION INC.

Secretary

Chairman

Approved as to form:

City Attorney

**MR. CLYDE HENLINE - RESERVOIR PROPERTY:** The City Manager stated that when stakes were placed for the fence at the Reservoir, Mr. Clyde Henline who owns the adjacent property disagreed with the boundaries. The disagreement was over a fourteen foot strip of land.

The City Manager stated that several of the Councilmen had looked at the area and that Mr. Henline had agreed to split the difference with the City.

Mayor Clark stated that he did not think that the City could legally give away land that a deed showed as belonging to them.

Councilman Little stated that he thought the City could enter into an agreement since the plat recognized a disagreement over fourteen feet of the land. Councilman Little also stated that he felt Mr. Henline should bear the cost for the legal fees and the surveyor fee to re-survey the line in dispute.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to have the City Attorney draw up an agreement with Mr. Clyde Henline and have the surveyor to resurvey the boundary line in question with Mr. Henline bearing all costs.

**HABITAT FOR HUMANITY - PROCLAMATION:** Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to join Mayor Clark in proclaiming the week of May 28 through June 3, 1989 as McDowell County Habitat for Humanity Week.

Mayor Clark signed the following Proclamation:

**HABITAT FOR HUMANITY PROCLAMATION**

WHEREAS, Habitat for Humanity is a Christian housing ministry committed to eliminating poverty housing in the world; and



**WHEREAS,** The Habitat ministry has grown tremendously in recent years. There are over 240 affiliated projects in the United States and Canada and more than 50 projects in developing countries; and

**WHEREAS,** Funding for Habitat comes from individuals, churches, individuals, corporations, foundations, and other organizations. No government funds are used; and

**WHEREAS,** Houses are constructed on a no-profit, no interest basis. Families who purchase homes do so at cost.

**WHEREAS,** Homeowners are selected on the basis of need, ability to repay the loan, character, and willingness to participate in building projects; and

**WHEREAS,** Habitat for Humanity seeks individuals with the desire to help themselves and others to experience the reality of home ownership; and

**WHEREAS,** Houses are built by hired labor, volunteers and prospective homeowners; and

**WHEREAS,** The term "sweat equity" refers to the actual hands on involvement of homeowners in housing construction. Families must contribute 400 hours of "sweat equity" in McDowell County; and

**WHEREAS,** the Chuck Laney family is the first habitat family in McDowell county. The Laney home, dedicated this past year, is the first of many which Habitat hopes to build locally; and

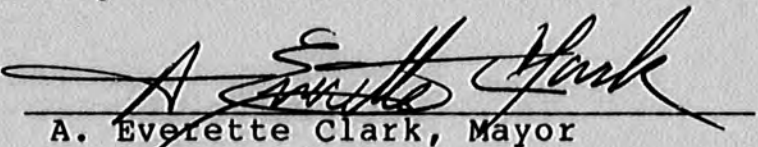
**WHEREAS,** McDowell Habitat for Humanity endorses the premise that people need capital, not charity, to upgrade their housing.

**NOW THEREFORE,** I, A. Everette Clark, Mayor do hereby proclaim the week of May 28 - June 3, 1989 as:

**MCDOWELL COUNTY HABITAT FOR HUMANITY WEEK**

I strongly urge all citizens to recognize the significant contributions Habitat for Humanity offers to its residents. When we see poverty in the world, we are sometimes overwhelmed, but together we can make a difference in McDowell County, by providing decent housing for many deserving families. Improved living conditions will in turn benefit the entire community, in terms of the health, education, employment and the general welfare of its citizens.

Date \_\_\_\_\_

  
A. Everette Clark, Mayor

**HABITAT FOR HUMANITY - HANGING BANNER OVER MAIN STREET:** Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to allow Habitat For Humanity to hang a banner over Main Street for a period of two weeks and to allow City personnel to assist the persons hanging the banner with the bucket truck. The City will not be responsible for the banner.

**APPOINT THREE MEMBERS TO BOARD OF ELECTIONS:** Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to appoint Mr. Ralph Rutherford, Mr. Zeb Hawkins and Mrs. Dot Bagwell to the City of Marion Board of Elections. The terms are for two years each and will begin on July 3, 1989.

**SET FILING FEE FOR ELECTION CANDIDATES:** Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to leave the filing fees for candidates for Mayor and City Council Members at \$5.00.

**CHARGES - LISTS OF VOTOR REGISTRATION:** The City Manager stated that in the past, election candidates had been given one copy of the votor registration if requested and any additional copies were \$5.00. He asked if Council would like to charge for the first copy since the list would be even larger. Council was in agreement. The City Manager was

directed to bring an appropriate cost for running the list back to Council so that a fee could be set.

**OFF PREMISE SIGN CONTROL ORDINANCE:** Councilman Little stated that the Billboard Ordinance had been presented to the County last evening, however, they had proposed several changes to the ordinance. Councilman Little stated that he felt that the ordinance should be uniform for the entire county and would like to recommend that the moratorium be extended an additional thirty days until the ordinance could be amended.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to extend the Billboard Moratorium for an additional thirty days.



**DOWNTOWN BUSINESS ASSOCIATION - SET BOOTH FEES FOR JULY 4TH VENDORS:** The City Manager presented a memorandum from Mrs. Lee Lynch, Downtown Development Director, stating that the Downtown Business Association would like for Council to set the booth fees for vendors during the July 4th Celebration.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to authorize the Downtown Business Association to set booth fees for vendors for the July 4th Celebration.

**DOWNTOWN BUSINESS ASSOCIATION - PERMISSION TO CLOSE MAIN STREET - JULY 4, 1989:** The City Manager presented a memorandum from Mrs. Lee Lynch, Downtown Development Director, stating that the Downtown Business Association would like to close Main Street from Henderson to Court Streets from 10:00 A.M. to 10:00 P.M. on Tuesday, July 4, 1989 so that they could have the July 4th vendors. They would like to have permission to close the entire street for the parade.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to allow the Downtown Business Association to close Main Street for the parade and to close a portion of Main Street - from Henderson to Court Streets from 10:00 A.M. to 10:00 P.M. for the July 4th Vendors.

**JOHNSON, PRICE & SPRINKLE - CONTRACT TO AUDIT ACCOUNTS:** The City Manager presented a copy of the contract to audit City Accounts for the fee of \$7,450.00 for the fiscal year 1988-1989. The cost last year was \$7,100.00.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to enter into a contract with Johnson, Price & Sprinkle to audit City Accounts for the fiscal year 1988-1989 at a cost of \$7,450.00.

**PAVING BIDS - COMMUNITY BUILDING PARKING LOT:** The City Manager stated that he had received the following bids for paving the Community Building Parking Lot:

Burnette Paving - \$3,200.00  
McDowell Asphalt, Patching & Sealing - \$2,925.00  
Johnson's Paving - \$2,912.00

The City Manager stated that he had received the following bids for Whilamenia and Holly Streets and West Court Streets as follows:

Burnette's Paving - \$880.00  
McDowell Asphalt, Patching & Sealing - \$720.00  
Johnson's Paving - \$518.00

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to accept the low bid of Johnson's Paving in the amount of \$2,912.00 for the paving of the Community Building Parking Lot and to authorize the City Manager to negotiate with Johnson's Paving for other work in the City Limits.

**PRIVILEGE LICENSE - PROPOSED AMENDMENTS TO ORDINANCE:** The City Manager presented a memorandum from LuAnn Ellis, Privilege License Clerk concerning changes to the Privilege License Ordinance due to the increase in population from the proposed annexations.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adopt the following Ordinance Amendment: (See pg 23-A)

**UTILITY FEES - CHANGES:** The City Manager presented copies of proposed utility fees which were developed by City Engineer, Gary McGill in the Water/Sewer Study. The proposed changes are as follows:

<u>WATER &amp; SEWER</u>	<u>INSIDE</u>	<u>OUTSIDE</u>
1. Prepayment - New Account	\$ 30.00	\$ 60.00
2. Tap Fees (Water):		
3/4" meter	250.00	500.00
1" meter	325.00	650.00
1-1/2" meter	450.00	900.00
2" meter	550.00	1,100.00
Over 2"	Case by Case	
3. Tap Fees (Sewer):		
4" Line	200.00	400.00
6" Line	250.00	500.00
Over 6"	Case by Case	
4. Change of Water Service Line Location (Instituted by Owner):		
3/4" meter	150.00	150.00
Over 3/4"	Case by Case	
5. Backflow Preventer		



	for Change of Service:	10.00	10.00
6.	Boring Under Street (added to Tap Fee or Change of Service Fee):		
	3/4" meter	10.00 L.F.	10.00 L.F.
	over 3/4"	Cost + 10%	
7.	Reinstating Account (after payment of unpaid balance)		
	a. If water was turned off at meter	15.00	15.00
	d. Return by meter service man	10.00	10.00
8.	Account Changes (with pd acct):		
	a. Reconnection by Summer/Seasonal Resident	15.00	15.00
	b. Transfer of Existing Customer to New Address	15.00	15.00
	c. Return Check Service Chg.	15.00	15.00
9.	Tank Truck Charges - Marion Fire Station:		
	a. Per Tank Truck up to 1500 gallon cap.	25.00	
	b. Per Tank Truck exceeding 1,500 gallon	40.00	
	c. Overtime usage (outside normal working hours)	25.00	
10.	Determination of Flow and Service Capabilities	100.00	

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept the recommendations of the Utility Committee as follows, and to allow the City Manager to mail notices to the water customers explaining the new charges. Said rates to be effective on June 30, 1989.

The City Manager stated that he would like to have some direction as to persons delinquent on their water bills. He stated that every month some of the same customers were on the water bill cut-off list. A short discussion followed. Council agreed to leave discretion to the City Manager regarding turn-offs.

**UTILITY FEES - SYSTEM DEVELOPMENT CHARGES:** The City Manager presented copies of the System Development Charges including tap on fees and impact charges to Council as follows:

**WATER SYSTEM DEVELOPMENT CHARGES BY METER SIZE:**

<u>METER SIZE</u>	<u>SYSTEM DEVELOPMENT CHARGE</u>
3/4"	\$ 300.00
1"	510.00
1-1/2"	1,050.00
2"	2,010.00
3"	4,500.00
4"	8,100.00
6"	18,000.00
8"	To be negotiated with City
10"	To be negotiated with City

**SEWER SYSTEM DEVELOPMENT CHARGES BY METER SIZE:**

<u>METER SIZE</u>	<u>SYSTEM DEVELOPMENT CHARGES</u>
3/4"	\$ 500.00
1"	850.00
1-1/2"	1,750.00
2"	3,350.00
3"	7,500.00
4"	13,500.00
6"	30,000.00
8"	To be negotiated with City
10"	To be negotiated with City

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the System Development Charges as presented to be effective immediately.

**REPORTS:**

**1. TIME EXTENSION - REQUEST - WHEELER CONSTRUCTION COMPANY:** The City Manager stated that he had received a letter from Wheeler Construction Company requesting a forty-five day extension of their contract for the line work for the 5-Lane Waste Treatment Facility. A short discussion followed.



**AN ORDINANCE AMENDING THE ORDINANCE ENTITLED  
ORDINANCE FOR THE LEVY AND COLLECTION  
OF BUSINESS LICENSE TAXES**

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

**Section 1.** That the Ordinance entitled **ORDINANCE FOR THE LEVY AND COLLECTION OF BUSINESS LICENSE TAXES**, as adopted by the City Council on June 8, 1976 be amended as follows:

**Section 2.** The following fees are to be deleted in their entirety and replaced as follows:

1. Movie Theaters - Fee increased from \$50.00 to \$87.50 per year.
2. Drive In Theaters - Fee increased from \$62.50 to \$87.50 per year.
3. Undertakers and Coffin Retailers - Fee increased from \$25.00 to \$40.00 per year.
4. To exempt Alarm Systems (Fire, Smoke, and Communications) from the list to be charged.
5. Peddlers: Farm Produce - Fee increased from \$12.50 to \$25.00 per year. The definition of peddler needs to state that a person selling farm or nursery products they produce are exempt from the license. In addition, they must maintain a fixed location to be taxed.

6. Day Care Facilities - Increased from a flat fee of \$10.00 to: (Per year Charge)

Less than 30 children -	\$10.00
30 - 49 Children	60.00
50 - 99 children	100.00
100 - 149 children	200.00
150 - 200 children	300.00
more than 200 children	400.00

7. Electric Video Machines - Fee is decreased from \$10.00 per machine to \$5.00 per machine.

8. Billboards - Fee is increased from \$10.00 to \$15.00 per year.
9. Loan Agencies - Fee is increased from \$50.00 to \$100.00 per year.
10. Service Station - Fee increased from \$3.75 to \$5.00 per year.
11. Motorcycle Dealers - Fee increased from \$10.00 to \$15.00 per year.
12. Heating Contractors - Fee increased from \$12.50 to \$15.00 per year.

**Section 3.** The following sections are to be added to the Ordinance as follows:

1. Addition of Flea Market Operators: \$100.00 per year.
2. Addition of Flea Market Vendors: \$25.00 per year.
3. Camp Grounds & Trailer Parks: \$12.50 per year.

**Section 4.** Addition of Section 17. as follows:

The Tax Collector shall furnish duplicate license upon satisfactory proof that a license has been lost or destroyed. The Tax Collector shall furnish a duplicate license for a fee of one half the original tax, not to exceed \$5.00.

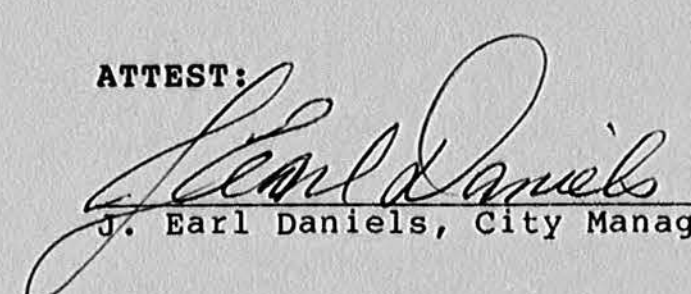
**Section 5.** All ordinances in conflict with this ordinance are hereby repealed.

**Section 6.** This ordinance shall be in full force and effect on June 30, 1989.

**ADOPTED** this the 16th day of May, 1989.

  
A. Everett Clark, Mayor

**ATTEST:**

  
J. Earl Daniels, City Manager/Clerk







Hwy 70 East from the intersection of Church Street with Hwy 70 East for approximately 2,000 feet. Tax Map 3C, Block 9, Lot 1 and 10. Tax Map 13C, Block 6, Lot 10.

M-1 Industrial District: Tax Map 3, Block 1, Lot - Balance of lot not included in C-2 General Business District as listed above. Tax Map 12C, Block 1, Lot 1.

The motion was seconded by Councilman Tyler. The vote was as follows: Ayes: Councilman Stronach, Councilman Tyler, and Councilman Ayers. Noes: Councilman Little.

CURTIS AUTO UPHOLSTERY - REFUND SEWER CHARGES: The City Manager presented a memorandum from the Public Works Department that it had been determined that Curtis Auto Upholstery was not on City Sewer but had been charged for the service several years.

The memorandum requested a refund to Mr. Howard Curtis Jr. in the amount of \$406.08.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to refund Mr. Howard Curtis Jr. in the amount of \$406.08.

MR. CARL HALL - REQUEST TO DISCHARGE SEPTIC TANK: The City Manager presented a letter from Mr. Carl Hall of Hall's Septic Tank Services requesting to discharge waste water into the City's Waste Treatment Facility. The letter stated that due to changes in State Laws, disposal of waste water (land dumping) was causing him to have to find an alternative to land disposal.

The City Manager stated that he had asked Mr. Bill Hunnicutt, Chief Operator of the Waste Treatment Plant to answer questions of Council and present his opinion of the matter. He stated that he would also like to make Council aware of two points which should be considered. 1. Would the City allow other septic tank services to dump into City Facilities; 2. A limit of the amount to be discharged needed to be set.

A short discussion followed. Mr. Hunnicutt asked that the matter be tabled until the next meeting because he had received additional information from the State concerning new regulations in the City's operations and he would like to have more time to prepare an opinion of the matter.

Mayor Clark asked if Council would agree to table the matter until the next meeting. Council was in agreement.

TILSON SANITATION - PROPOSAL - PICK-UP CITY COMMERCIAL GARBAGE: The City Manager presented a letter from Mr. David Tilson of Tilson Sanitation with a proposal to pick-up all of the Commercial Garbage inside the City Limits at \$7.00 per pick-up for a two year period.

A short discussion followed. Council was in agreement that it would not be in the best interest of the City at this time to enter into such an agreement.

BILLBOARD/SIGN ORDINANCE: Council agreed to table the matter until the next meeting until they could obtain a copy of the Ordinance which had been amended by the County Commissioners.

Councilman Little stated that he would have an amended copy to the Council by the end of the week. He stated that he would like to mention that the ordinance had been adopted by the County.

VOTER REGISTRATION LISTS: The City Manager stated that he had talked with Ms. Jane Sigmon, Supervisor of Elections concerning a charge for the voter registration lists. He stated that they had agreed that \$10.00 would be reasonable.

Councilman Stronach stated that he felt the charge should be around \$25.00.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to charge \$25.00 per voter registration list for candidates and \$50.00 per voter registration list for non-candidates.

TANK TRUCK CHARGES FOR PICKING UP CITY WATER: The City Manager stated that he would like to recommend that the charges for water picked up by tank trucks set at the previous meeting be rescinded and new rates adopted as follows:

For personnel of the Railroad, DOT, and persons contracting with DOT, the rates shall be as follows:

1. Pick-ups at Fire Station: \$10.00 plus \$.02 per gallon
2. Pick-ups at Fire Hydrants: \$20.00 plus \$.02 per gallon



For all other persons the rates shall be as follows:

1. Pick-ups at Fire Station: \$10.00 plus \$.05 per gallon
2. Pick-ups at Fire Hydrant: \$20.00 plus \$.05 per gallon

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to rescind the charges set at the May 16, 1989 meeting and adopt the charges as recommended by the City Manager.

**COMMUNITY BUILDING - CONSTRUCTION WORK:** The City Manager stated that it had been proposed that a porch be constructed at the Community Building from the sidewalk at the kitchen entrance to the front entrance. The City Manager stated that the porch would be constructed of treated timber and would, in addition to providing a shelter from the weather, would reduce utility costs by shading the main meeting hall from direct sunlight and prevent rain water from getting into the basement.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, those members of Council present voted unanimously to construct the porch at the Community Building as proposed.

**ORDINANCE - NO PARKING - WEST COURT STREET:** Upon a motion by Councilman Tyler, seconded by Councilman Little, 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. West Court Street (north side) - between Ellis Street and Hillcrest Drive.

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 6th day of June, 1989.

ATTEST:   
J. Earl Daniels, City Clerk

  
A. Everett Clark, Mayor

Ordinance Number 0-89-06-06-1

**CONTRACT - PRIVATE GARBAGE COLLECTION FIRMS - DISCUSSION:** The City Manager stated that the contracts with the private hauling firms were being finalized and he would like Council's permission for the Mayor and City Manager/Clerk to execute the documents.

The City Manager stated that he had come across a potential problem. He stated that Mr. Tilson of Tilson Sanitation had come in and stated that one business on the 5-Lane had previously had one pick-up which was figured into the budget and that now they requested two pick-ups. The City Manager stated that he had found out that during the summer months, the pick-up did increase in this particular case. He stated that he did not think that the City should provide two pick-ups for persons who got by with one pick-up but since the City would pay for two pick-ups now requested the two pick-ups.

A short discussion followed. The Mayor stated that he felt that the customers should be given two pick-ups if needed and stated that the City Manager could justify the additional pick-ups. Council was in agreement.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to allow the Mayor and City Manager/Clerk to execute any and all documents relating to the garbage contracts with Tilson Sanitation and GDS.

**CEMETERY MAINTENANCE - PRIVATE LOTS:** The City Manager stated that some questions

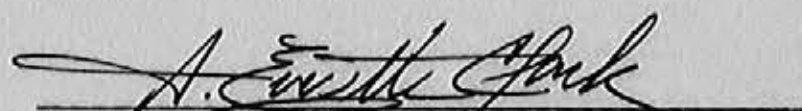


Council agreed to table the matter until the next meeting.

**2. 1989-1990 BUDGET PREPARATION:** The City Manager stated that he was working on the budget and would present copies to the City Council by the first of June. He stated that a joint meeting had been set for May 23, 1989 at 4:00 P.M. in the County Commissioner's Boardroom for the purpose of meeting with the various organizations requesting contributions.

**3. MRS. ELIZABETH NOYES - COMMENTS:** The City Manager was directed to contact the person who cleans the Marion City Square parking lot and the persons who pick up the garbage for the shopping center and see if they could arrange to pick up the trash and clean the lot during hours when persons would not be asleep. He was also directed to let Mrs. Noyes know that he was to be in contact with these persons.

**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

June 6, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, June 6, 1989 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; LuAnn Ellis, Secretary, Glen Sherlin, Public Works Director; Lovina Smith Zoning Administrator; Buck Byrd, Chief Operator, Water Filter Plant; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Bill Gilsdorf, Police Chief; Woody Harton, North Carolina Department of Natural Resources and Community Development; Robin Hood, Chairman of the Planning/Zoning Board; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Ms. Betty Pearson, 524 Fifth St, CL; Ms. Myrtle Freshour, 524 Fifth St, CL; Mrs. Terry McKinney, 13 Circle St, CL; Ms. Maud Beachboard, 261 Church St, CL; Ms. Rovie Hall, 515 5th St, CL; Ms. Hazel Wylie, 511 5th St, CL; Ms. Glennys Gilbert, 218 Va Rd; Mrs. Jean Jenkins, 3371 Hill St; Ms. Hattie Stuart, 370 Hill St; Mr. Jack McHone, 10 Pine Grove; Mr. Ronnie Burgin; Mr. Ted Buckner, 412 4th St; Ms. Marie Gladden; Ms. Sadie Andrews, 247 Baldwin Ave; Ms. Nettie S. McKinney, 13 Circle St; Ms. Gertie Johnson, PO Box 1303; Ms. Arzelia McKinney, 258 Church St; Mr. David J. McKinney, 258 Church St.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Little, those members of Council present voted unanimously to approve the minutes of the May 16, 1989 meeting.

**PROPOSED ZONING - CLINCHFIELD AREA:** Mr. Robin Hood, Chairman of the Planning/Zoning Board stated that the Board had looked at the area referred to as High Street (Highland Drive) in reference to the request that it be zoned R-1, Single Family Residential. Mr. Hood stated that the board would like to recommend that the area be R-2, General Residential as originally proposed.

Councilman Little stated that he would like to withdraw his amendment of the previous meeting regarding that High Street be zoned as R-1, Single Family Residential, and that it be zoned as R-2, General Residential. Councilman Little stated that if the property in question belonging to Mr. Ronnie Burgin be zoned as R-2, General Residential, and the parking area would be zoned as C-2, General Business, the zoning would not affect Mr. Burgin's operations.

Mr. Burgin stated that his property was now for sale.



Councilman Little stated that the property could remain as a garage if it was sold. Mrs. Lovina Smith, Zoning Administrator confirmed Councilman Little's statement adding that the property must be sold within twelve months.

Mr. Burgin stated that he did not see the purpose of having a Planning/Zoning Board if the City Council could over-rule their decisions. He stated that the board had recommended that the property be C-2, General Business and he felt that it should be zoned this way.

Mr. Hood stated that if the property was zoned as R-2, General Residential, some restrictions would be placed on the property.

Ms. Glennys Gilbert asked why the property could not be zoned as Industrial? Mayor Clark stated that if the property was zoned as Industrial, it would not be as restricted as C-2, General Business. Ms. Gilbert stated that a garage would not be allowed because it was not a manufacturer. She was informed that a garage would be allowed in an industrial district.

Mrs. Lovina Smith read the allowed uses of property zoned C-2, General Business and property zoned M-1, Industrial.

A citizen stated that they did not want to have junk cars or a junk-yard in the neighborhood. Mayor Clark stated that proper zoning of the property would prohibit junkyards.

One citizen asked if the entire area could not be zoned as C-2, General Business so that they could sell the property where their homes were as business sites. She was informed that if the entire area was zoned in this manner, homes could not be enlarged in any way because they would be considered as a non-conforming use of the property.

Councilman Stronach stated that the garage was there, why not zone the property where the parking lot is located as R-2, General Residential and the property where the garage is located C-2, General Business.

Mrs. Terry McKinney asked if the entire are was zoned as C-2, General Business, would she be allowed to add onto her home. She was told that she could not.

Mr. Robin Hood stated that the citizens could at any time come back to the Planning/Zoning Board and ask that the property be zoned in a different manner that this was by no means a forever situation.

Councilman Ayers stated that he would like to withdraw his second to Councilman Little's motion at the last meeting.

Councilman Little stated that nothing the City Council can or would do would interfere with Mr. Burgin's garage.

Councilman Stronach asked if there were any objections to the property being zoned as C-2, General Business. The citizens present stated that they wanted the property zoned as R-2, General Residential.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to call for the question.

The motion, made at the May 16, 1989 meeting and amended tonight was as follows:

Councilman Little stated that he would like to make a motion that the zoning be accepted as proposed with the exception of the properties belonging to Mr. Ronnie Burgin being zoned as R-2, General Residential instead of C-2, General Business. The motion was seconded by Councilman Ayers. The vote was as follows: Ayes: Councilman Ayers and Councilman Little; Noes: Councilman Stronach and Councilman Tyler.

Mayor Clark stated that in the event of a tie, he was allowed to vote. He stated that in view of the fact that the property belonged to a mill and had been used by an industry, he had no choice except to vote against the motion.

The City Manager stated that a motion needed to be made to actually zone the property.

Councilman Stronach made a motion to zone the property as follows:

All properties included in the Clinchfield Annexation area are zoned as R-2 General Residential District with the following exceptions:

R-1 Single Family Residential District: Tax Map 1C, Block 9, Lot 2A, Lot 2C, Lot 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K, 2L.

C-2 General Business District: Tax Map 3, Block 1, Lot 1 - 400 feet deep along



had come up concerning the City's responsibility on private cemetery lots.

The City Manager stated that in the past, when a survivor could not be located, the City had corrected problems on a private lot. He stated that other than when a survivor could not be located, the City only mowed the lots.

Councilman Little stated that he felt that the upkeep of the lots were a private matter.

Councilman Tyler stated that he did not see a problem with the City cutting a boxwood or other plant or tree in the walkway. Public Works Director, Glen Sherlin stated that the City did trim plants or bushes in the sidewalks but it made the plant look worse because it was not trimmed properly.

Councilman Little stated that for persons out of town, not knowing who to contract for work, he would suggest that the yellow pages in the local telephone directory be zeroxed and sent to the owner or survivor of the lot.

Council agreed to leave the policy as is with City taking forces mowing the cemetery and taking care of private lots only in the cases where a survivor can not be located.

**WHEELER CONSTRUCTION COMPANY - TIME EXTENSION:** Mayor Clark stated that at the last meeting, a forty-five day time extension had been tabled. The extension was with Wheeler Construction Company concerning the sewer lines for the 5-Lane.

Councilman Stronach made a motion to grant a thirty day extension.

Councilman Little asked if there had not been problems with the crew working short hours. Councilman Stronach stated that he had been on the site several times and that he felt that with the traffic problems, the crew had done their best.

Councilman Ayers seconded the motion made by Councilman Stronach. Those members of Council present voted unanimously to grant a thirty day extension to Wheeler Construction, with all work being completed on June 21, 1989.

**SET SPECIAL MEETING - 1989-1990 BUDGET DISCUSSION:** The City Manager asked if Council would like to have a special meeting to discuss the Budget. The meeting was set for Tuesday night, June 13, 1989 at 7:00 P.M.

#### REPORTS:

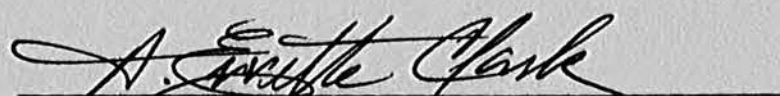
1. **CHIEF OF POLICE, BILL GILSDORF:** The Chief of Police presented his monthly report to Council and included a copy of a letter to send to persons in the newly annexed areas.

2. **MEETING - CONTEL - UNDERGROUND WIRING:** Mayor Clark stated that he and the City Manager had met with officials from Contel concerning underground wiring in town. He stated that they had been informed that Contel did not have the funds to put the wiring underground on Fort Street to Logan Street but that if the City would like to fund the project, they would be more than glad to complete it.

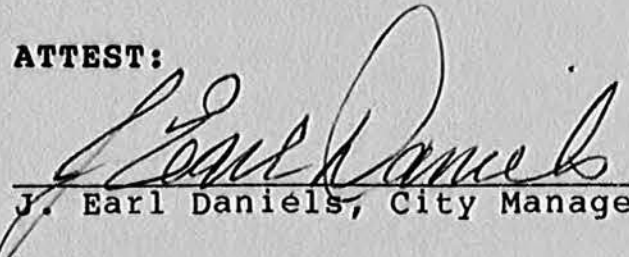
3. **CENTRALIZED PURCHASING - GASOLINE PRICES:** The City Manager presented quotes for gasoline prices as of today to Council. Council agreed that if the City could save two cents (\$.02) or more per gallon, the City could purchase gasoline outside of the County.

4. **COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that at the Habitat for Humanity Jamboree, he had noticed that the Police Officers were extremely warm due to the weather. He stated that he thought that in events of that nature, the baseball caps for the department would be more appropriate than the large formal hats the department normally wore. He also stated that it had been suggested that the women in the department be allowed to wear "split skirts" in certain situations.

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

  
A. Eyette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk



STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

June 13, 1989

The City Council for the City of Marion met in Special Session on Tuesday night, June 13, 1989 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Glen Sherlin, Public Works Director; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Buck Byrd, Chief Operator, Water Filter Plant; Bill Gilsdorf, Chief of Police; Arthur Edwards, Fire Chief; Van McKinney, News Reporter, W.B.R.M. Radio; and Lydia Carrington, News Reporter, The McDowell News.

The meeting was called to order. The purpose of the meeting was to discuss the Budget for the fiscal year 1989-1990.

The board spent several hours asking questions and discussing the proposed budget.

The Public Hearing on the budget is set for Tuesday night, June 20, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

June 20, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, June 20, 1989 at 7:00 P.M. in the City Council Chamber.

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

**BOARD MEMBER ABSENT:** Councilman Robert Ayers.

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

**GUESTS PRESENT:** Mrs. Glenda Bruner, Community Care Center; Mr. Pat Jobe, Family Services; Mr. P.J. Epperson, Family Services; Mr. Seth Roland, Family Services; and Mrs. Lynn Boggs, Family Services.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to approve the minutes of the June 6, and June 13, 1989 meeting.

**INTRODUCTION - MRS. MYRNA WOODY:** The City Manager stated that he would like to recognize Mrs. Myrna Woody. He stated that she would be completing an internship with the City through Appalachian State University. He stated that she would be working with the individual departments so that she could become more familiar with the day to day operations of the City.

**MR. GREG JONES - PARKING TICKET WHILE ON JURY DUTY:** The City Manager stated that Mr. Jones had called earlier in the day to advise that he would not be present at the meeting.

The City Manager stated that Mr. Jones could appear before Council but that he would have to appeal to the proper Court Authorities to have the ticket removed or forgiven.

Police Chief Gilsdorf stated that he had talked with Mr. Jones last week and he thought that he had solved the problem. He stated that Mr. Jones wife had parked in a fire lane while she was on jury duty because she thought she had been directed to park there. He stated that he explained the procedures to Mr. Jones



and he seemed satisfied.

COMMUNITY CARE CENTER - REQUEST FOR FUNDS - 1989-1990 BUDGET: Mrs. Glenda Bruner appeared before Council on behalf of the Community Care Center to request for funds from the 1989-1990 budget.

Mrs. Bruner stated that the Community Care Center would like to request funds in the amount of \$5,000.00, the same as last year.

Mayor Clark stated that the amount would be considered later in the meeting. Mrs. Bruner expressed her appreciation to Council for their consideration.

FAMILY SERVICES - REQUEST FOR FUNDS - 1989-1990 BUDGET: Mr. Pat Jobe appeared before Council on behalf of Family Services to request funds in the amount of \$10,000.00 from the 1989-1990 budget.

Mr. Jobe presented an illustration to Council to back-up his request.

Mayor Clark stated that the amount would be considered later in the meeting. Mr. Jobe thanked Council for their consideration.

CHRISTY DESTINY MINE - REQUEST TO DISCHARGE IN WASTE TREATMENT FACILITY: The City Manager presented a request from the Christy Destiny Mine to discharge into the City's waste treatment system to Council. The City Manager stated that he would also like to consider the request from Mr. Carl Hall of Hall's Septic Tank Services at the same time. (Ref: Minutes of June 6, 1989). Letters of opinion from Mr. Bill Hunnicutt, Chief Operator, Waste Treatment Plant were also presented to Council.

Councilman Little stated that after reading Mr. Hunnicutt's opinion of the requests and the City's liability, he did not feel that the City could afford the risk of allowing these persons to discharge into the City's System.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to decline the requests of Mr. Carl Hall and The Christy Destiny Mine to discharge into the City's waste treatment facility.

PUBLIC HEARING - 1989 - 1990 BUDGET: The City Manager opened a Public Hearing for the purpose of discussing the 1989-1990 Budget.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to increase the allocation to Family Services to \$10,000.00 rather than \$7,500.00. The remaining funds are to come from the Capital Reserve Account.

The City Manager stated that he would like to hold the approval of the budget until a time when the water and sewer rate increase could be discussed.

There being no further business, the Public Hearing was closed.

BILLBOARD ORDINANCE: Councilman Little stated that the ordinance was identical to the one approved by the County except for the jurisdiction. He stated that under the present ordinance, no billboards would have to come down. He stated that a number of billboards would become non-conforming to the ordinance and if they were upgraded in any manner, they would have to be brought into conformance at that time.

Mayor Clark stated that he had several questions concerning the ordinance. He stated that he felt that the City should charge the same amount of fees that the County charged for the sign permits, etc. Councilman Little did not have the schedule of fees, but stated that he would have them for the next meeting.

Mayor Clark stated that he would like to know why Section 405 referred to Sections 706 and 708 rather than Section 709. Councilman Little stated that he did not know why the ordinance had been typed in that manner. Councilman Little agreed that Section 405 should refer to Section 709 rather than Sections 706 and 708.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the Billboard Ordinance changing Section 405 to refer to Section 709 rather than Section 706 and 708 as follows:

**OFF-PREMISE SIGN CONTROL ORDINANCE  
OF  
CITY OF MARION, NORTH CAROLINA**

This Ordinance shall be known and may be cited as the "Off-Premise Sign Control Ordinance of the City of Marion, North Carolina."



## ARTICLE I AUTHORITY

This Ordinance is established by the City Council of the City of Marion pursuant to the authority conferred by the North Carolina General Statutes. The City Council hereby ordains and enacts into law the following articles and sections.

## ARTICLE II PURPOSE

The purpose of this Ordinance is to regulate the erection and placement of certain off-premise advertising signs in the City of Marion. The City Council is committed to preserving the scenic and aesthetic features of the City of Marion in order to protect and promote the development of the tourist industry and provide for the protection of the quality of life for residents and visitors. The City Council further seeks to insure the safety of the local and visiting motorist on the public roads in the City of Marion by reducing the distracting influence of uncontrolled off-premise advertising signage throughout the City. The City Council is aware of, and sensitive to, the need for local businesses to adequately identify their products and services and is committed to providing reasonable regulations while safeguarding the interest of local businesses. Further, the City Council provide that any sign regulated by this Ordinance may contain, in lieu of any other copy, and otherwise lawful, non-commercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with the size, lighting, spacing, setbacks, and other requirements of the area in which it is located.

## ARTICLE III JURISDICTION

The provisions of this Ordinance shall apply to the incorporated areas of Marion, lying inside of the corporate limits of the City of Marion. No type of off-premise advertising sign as herein defined may be erected, maintained, posted, placed, replaced, hung, painted or repainted in any incorporated area of the City of Marion except in accordance with this Ordinance.

## ARTICLE IV DEFINITIONS

### 400. Definitions.

The following words or terms have the meaning as herein defined:

Sign: Any display of letters, words, numbers, figures, devices, emblems, pictures, logos, or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as part of a structure, surface, or any other object whether natural or man made.

Sign Exempt: Any sign which is specifically listed as exempt from this Ordinance. Said listed exempt signs are not regulated by the terms of this Ordinance and shall not require a permit.

Sign, Nonconforming: Signs that are erected and in place prior to the adoption of this Ordinance and which do not conform to the provisions of this Ordinance are declared nonconforming signs. A sign that is erected and that is in place and which conforms to the provisions of the sign Ordinance at the time it is erected, but which does not conform to an amendment of this Ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign.

Sign, Off-Premise Advertising: Any sign advertising a product, service, business or activity sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally, if at all.

Sign, Off-Premise Directional: Any off-premise sign indicating the location of or direction to a business, office or other activity. The sign shall not include any information or message except the name of the business or activity, and directions or symbols indicating directions. If a sign contains any additional message or exceed the maximum area, it shall be construed as an off-premise advertising sign.

Sign, On-Premise Advertising: Any sign advertising or identifying a product, service, business or activity sold, located or conducted on the premises where the sign is located.

Sign, Prohibited: Any sign, or element of a sign, which is specifically listed as prohibited shall not be permitted within the jurisdiction of this Ordinance.

### 401. Area of Signs Defined.

The area of a sign shall be considered to be that of the smallest rectilinear



figure which encompasses all lettering, wording, design or symbols, together with any background difference on which the sign is located, if such background is designed as an integral part of and related to the sign. Any cut-outs or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

#### 402. Illumination of Signs Defined.

Sign, Directly Illuminated: A sign designed to give forth artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign, Indirectly Illuminated: A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign, Not Illuminated: A sign which has neither direct nor indirect illumination.

#### 403. Value of Signs Defined.

The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the Sign Enforcement Officer (SEO) shall estimate the original cost based upon the best information reasonably available.

#### 404. Height of Signs Defined.

The height of a sign shall not exceed the maximum height set forth in this Ordinance. The height of a sign shall be measured from the existing adjacent street grade to the uppermost point of the sign or sign structure, whichever is higher.

#### 405. Sign Maintenance Defined.

For the purposes of this Ordinance, maintenance shall include those activities and procedures listed in Section 600 of this Ordinance. Work done to restore or repair a sign which is damaged or destroyed shall be considered repairs in accordance with the provisions in Section 706 and Section 708.

### ARTICLE V SIGN REGULATIONS

#### 500. Permits Required.

All off-premise signs maintained, erected, placed, posted, attached, painted or otherwise made visible from an adjacent property or right-of-way, except as otherwise prohibited, exempting or not requiring a permit by this Article, require a sign permit in accordance with the provisions of Article VII of this Ordinance. Any sign that is erected, placed or maintained without a required permit shall be in violation of this Ordinance.

#### 501. Signs Exempt from this Ordinance.

The following signs are exempt from this Ordinance:

- (1) On-premise advertising and on-premise incidental signs.
- (2) Signs of a governmental body, including traffic warning or regulatory signs and devices. These signs shall also include other governmental signs including building identification, directional, information and welcome signs.
- (3) Trade names and graphics which are located on newspaper, soft drink and similar vending devices.
- (4) Flags or insignia of any governmental or non-profit organization when not displayed as an advertising device.
- (5) Decorations associated with a national or religious holiday.
- (6) Signs warning of danger posted by utility or construction companies.
- (7) Commemorative tablets, markers or monuments erected by or with the permission of the City Council of the City of Marion.
- (8) Signs on operational motor vehicles indicating the name of a business,



when the vehicle is not intended to be used for a display of signs.

- (9) Signs required by law, statute or ordinance.
- (10) Signs smaller than eight (8) square feet giving notice or direction for sale of real estate or personal property, such as temporary realtor's signs and yard sale signs.
- (11) Signs with non-commercial messages.

#### 502. Signs Prohibited.

The following off-premise signs are prohibited within the jurisdiction of this Ordinance in the City of Marion, North Carolina:

- (1) Any non-governmental sign which resembles a public safety warning or traffic sign.
- (2) Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of governmental signage.
- (3) Any sign which obstructs ingress or egress, creates an unsafe direction for motorists, or obstructs the view of motorists entering a public road or highway.
- (4) Signs which incorporate flashing or blinking lights or signs with moving parts or parts which stimulate movement.
- (5) Signs located on or attached to the roof of a structure.
- (6) Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- (7) Signs located in a manner which are designed to be visible from any road, street or highway, or portion thereof, which is designated a Scenic Corridor by the City Council of the City of Marion.
- (8) Signs which contain words or graphics which are obscene, as that term is defined in Chapter 15 of the North Carolina General Statutes.

#### 503. Directional Signs, Subject to Ordinance Provisions.

(a) The following off-premise signs, known as Directional Signs shall conform to the standards and provisions of this Ordinance, except Section 504 and all Sections of Article VII, but they shall not require the issuance of permits. Directional Signs shall:

- (1) contain only the name or logo of a business located in McDowell County, North Carolina, an arrow or other mark to indicate the direction of the business location and the distance to the business from the sign.
- (2) not exceed eight (8) square feet in area per sign face.

(b) All non-advertising off-premise signs which meet the above definition of Directional Signs except for the sign face area but which do not exceed 32 square feet in sign face area which were in place before May 3, 1988 shall be considered legal non-conforming Directional Signs.

#### 504. Regulation of Off-Premise Advertising Signs.

(a) Off-premise advertising signs are permitted in accordance with the following regulations:

- (1) A permit is required for each off-premise advertising sign, regardless of size.
- (2) Off-premise advertising signs located where designed to be visible from any U.S. or N.C. highways shall not exceed 300 square feet per sign face, shall be no closer than 30 feet from the edge of the traveled way where the right-of-way is unknown or does not exist and shall have a height no greater than 30 feet. Such signs shall be at least 1,500 linear feet (measuring along both sides of the highway) from any other off-premise advertising sign; at least 500 feet away from any intersection of the centerlines of any streets; at least 500 feet from any at-grade railroad crossing or any bridge; and at least 1000 feet from any dwelling unit, church or place of worship, cemetery, school, playground or park located within 660 feet of the right-of-way.
- (3) Off-premise advertising signs located where designed to be visible from any other road or street shall not exceed 150 square feet per sign face,



shall be no closer to the right-of-way than 10 feet (or no closer than 20 feet from the edge of the traveled way where the right-of-way is unknown or does not exist) and shall have a height of no greater than 30 feet. Such signs shall be at least 1000 linear feet (measuring along both sides of the highway) from any other off-premise advertising sign; at least 300 feet away from any intersection of the centerlines of any streets at least 300 feet away from any at-grade railroad crossing or any bridge; and at least 500 feet from any dwelling unit, church or place of worship, cemetery, school, playground, or park located within 660 feet of the right-of-way.

- (4) No off-premises outdoor advertising sign in any location shall be more than eight hundred (800) feet from a business, commercial or industrial enterprise located on the same side of the street, road or highway as the sign.
- (5) An off-premises advertising sign structure may have one sign face for each side. No structure shall have more than one sign face per side or more than a total of two sign faces.
- (6) No off-premise advertising sign shall be attached to or painted on any building or structure.

(b) Notwithstanding the restrictions set forth in subparts (2), (3) and (4) of Section 504(a) above, an off-premise advertising sign may be constructed within 1,000 feet from any dwelling unit (for purposes of sub-parts [2] and [3] of Section 504 [a]) or within 500 feet of a dwelling unit (for purpose of sub-part [4] of Section 504[a] above) PROVIDED the placement of such off-premise advertising sign is in strict compliance with all other requirements and regulations of this Ordinance as long as each owner of any dwelling unit located within such distance executes a statement granting express permission for the placement of such off-premise advertising sign within the distance called for by this Ordinance. Such statement shall refer to the book and page number on which the deed for the owner's property is recorded in the McDowell County Deed Registry and said statement shall be properly notarized. A copy of said statement shall be delivered to the Sign Enforcement Officer (SEO).

#### ARTICLE VI SIGN MAINTENANCE, ABANDONED SIGNS, TREE CUTTING

##### 600. Maintenance Provisions.

All off-premise advertising and off-premise directional signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall conform to the standards in this section. Maintenance carried out in accordance with this section and not the result of damage or destruction shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a non-conforming condition.

- (1) A sign shall be in a state of disrepair when more than twenty percent (20%) of its total surface area is covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this Ordinance.
- (2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which cause the sign to stand more than fifteen (15) degrees from the perpendicular.
- (3) No sign or sign structure shall be allowed to have weeds, vines, or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed.
- (4) No neon or illuminated sign shall be allowed to stand with only partial illumination operation or partial neon operational.

Any off-premise advertising sign or off-premise directional sign which violates the maintenance provisions listed above shall be in violation of this Ordinance and shall be repaired or removed as required by the applicable sections of this Ordinance.

##### 601. Unlawful Cutting of Trees or Shrubs.

No person may, for the purpose of increasing or enhancing the visibility of any off-premise sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located within a public right-of-way of any road or highway, except where a legal permit for such has been obtained from the North Carolina Department of Transportation.

#### ARTICLE VII PERMITS, FEES AND NONCONFORMING SIGNS



#### 700. Permits.

All off-premise signs, except as otherwise provided in Article V of this Ordinance, shall require a sign permit prior to being maintained, located or erected on any property within the jurisdiction of this Ordinance. Sign permits shall be issued by the sign Enforcement Officer (SEO). If a sign permit is denied, the decision may be appealed to the City Council of the City of Marion within thirty (30) days of the decision.

#### 701. Permit Application.

No permit shall be issued until an application has been completed for each separate off-premise sign structure and until that application has been submitted to the SEO along with the required initial fee. The only application that shall be required is the application for the initial issuance of a permit and that initial permit shall be valid until revoked by the SEO.

Applications for a permit to maintain an existing off-premise sign and or construct a new off-premise sign may be obtained from the City of Marion Building Inspector's Office. Instructions for the completing and processing the application are included on the permit form.

#### 702. Permit Fees.

Initial and annual renewal fees shall be required to be paid by the owners of the off-premise sign structures for each permit requested in order to defray the cost of the administrative and inspection expenses incurred by the City of Marion in administering the permit procedures. Such fee schedules shall be determined by the City Council of the City of Marion.

#### 703. Permit and Permit Emblem.

A permit along with a permit emblem shall be issued upon proper application, approval, and the payment of fees for lawful off-premise sign structures.

The erection of new sign structures shall not commence until a permit and emblem have issued. The sign structure must be completely constructed and erected with the permit emblem affixed within 180 days from the date of issuance of the permit. During the 180 day period, the new sign structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in the appropriate rules and regulations of this Ordinance.

The permit emblem, which will have an identifying number, shall be placed on the off-premise sign structure in such a position as to be visible from the main traveled roadway of the adjacent highway.

#### 704. Registering Existing Off-Premise Signs.

All sign structures constructed and in the place prior to the adoption of a moratorium ordinance by the City Council of the City of Marion on May 3, 1989 shall be required to obtain a permit by the procedures set forth in this article and affix a city permit emblem within 30 days after the issuance of the permit unless exempted under Section 503. The permit shall be obtained within a period of 180 days beginning with the effective date on this Ordinance.

All existing signs that require a permit that have not been registered within the 180 days shall be in violation of the provisions of this ordinance and subject to penalties provided in Section 802.

If the existence of a sign prior to the passage of the moratorium ordinance is questioned, the issue will be determined by a panel made up of the SEO, City Manager, sign owner, and a designated representative from Clean County System, and use of the videotape made of the county roadways at the time of the passage of the moratorium. Any sign determined by this committee to have violated the moratorium act shall be removed at the owners expense.

#### 705. Transfer of Permit.

The transfer of ownership of an off-premise sign structure for which a permit has been lawfully issued to the original owner shall not in any way affect the validity of the permit for that specific structure, provided that the SEO is given notice of the transfer of ownership within thirty (30) days of the actual transfer.

#### 706. Revocation of Permit.

Any valid permit issued for a lawful off-premise sign structure shall be revoked by the SEO for any one of the following reasons:

- (1) Mistake of material facts by the issuing authority for which had the



correct facts been known, the sign permit in question would not have been issued.

- (2) Misrepresentation of material facts by the applicant on the application for permit for the sign.
- (3) Failure to pay annual renewal fees.
- (4) Failure to construct the sign structure and affix the permanent emblem within 180 days from the date of issuance of the permit.
- (5) Any alteration of a sign structure for which a permit has previously been issued which would cause that sign structure to fail to comply with the provisions of this Ordinance and the rules and regulations promulgated by the City Council of the City of Marion pursuant thereto.
- (6) Any violation of Section 708.
- (7) Unlawful destruction of trees or shrubs or other growth located on the right-of-way in order to increase or enhance the visibility of a sign structure.
- (8) Abandonment or discontinuance of a sign.
- (9) Failure to maintain a sign such that it remains blank for a period of twelve consecutive months.
- (10) Failure to maintain a sign such that it reaches a state of dilapidation or disrepair as determined by the SEO.
- (11) Making repairs to a nonconforming sign which exceed 50% of the initial cost of the sign. Total repairs within any 24 consecutive months may not exceed 50% of the value of the sign. To avoid liability under this clause, the advertiser should contact the SEO prior to making any repairs to discuss the scope of the proposed improvements. The scope of the improvements is limited to the following: repairing the sign or sign structure, replacing broken glass or other work to keep the sign safe and in good repair.

#### 707. Notice Given for Refusing to Issue Permit.

Should the SEO determine that a proposed off-premise sign structure would not conform to the standards of outdoor advertising as set out in this ordinance or the rules and regulations promulgated thereto by the City Council of the City of Marion the SEO shall refuse to issue a permit for that proposed sign structure.

When such noncompliance of this ordinance has been determined, the SEO shall so notify the owner of the proposed sign structure in question by first class United States Mail in the form of a letter setting forth the reasons why the proposed sign structure in question does not comply, and shall also return the application and 75% of the application fee to the applicant.

#### 708. Nonconforming Signs.

(1) Any sign which become a legal nonconforming sign as herein defined may continue to exist provided that no nonconforming sign shall be:

- (a) Changed or replaced with another nonconforming sign, except that copy may be changed on an existing change.
- (b) Expended.
- (c) Relocated, except in conformance with the requirements of this Ordinance.
- (d) Re-establishment after damage or destruction in excess of fifty percent (50%) of the value at the time of the damage or destruction.
- (e) Modified in any way which increases the sign's degree of nonconformity.
- (f) Re-established after the sign structure has been removed.

#### 709. Reconstruction of Damaged Signs or Sign Structure.

(a) Any conforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30) days and completed within sixty (60) days of such damage. However, if the sign should be declared unsafe by the Sign Enforcement Officer.

(b) As a courtesy to the sign owner, if the SEO discovers that a sign has been damaged or is in an unsafe conditions, the SEO will promptly notify the owner



of the sign or the owner of record of the real property whereon the sign is located of such damage or unsafe condition. The affirmative duty and liability shall, however, at all times remain with the owner of each sign to keep each sign in a safe and undamaged condition in keeping with the terms of this Ordinance.

#### ARTICLE VIII ADMINISTRATION, ENFORCEMENT, APPEALS, PENALTIES

##### 800. Administration.

The City Council of the City of Marion shall appoint a Sign Enforcement Officer. The Sign Enforcement Officer is hereby given the authority to enforce the provisions of this Ordinance and shall have the following authority.

- (1) To issue a Violation Notice for any violation of the Ordinance. A Violation Notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the Ordinance. Whenever the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such Violation Notice. The Violation Notice shall identify the sign and shall describe the nature of the violation, refer to the section of the ordinance violated, specify in detail what action must be taken to correct the violation, and specify a reasonable time limit of up to thirty (30) days within which the violation must be corrected.
- (2) To issue a remove order for any sign or sign structure not corrected within the time allotted under the Violation Notice, or for a prohibited sign as established by this Ordinance. A Remove Order shall be delivered to the sign owner of record of real property whereon the sign is located in the same manner as set out for a Violation Notice and shall not be effective until received. The recipient of the Remove Order shall be allowed thirty (30) days after the receipt of the Remove Order within which to remove the subject sign at his expense. The Remove Order shall identify the sign and reasons for the issuance of the Remove Order and shall refer to the section of Ordinance violated.
- (3) To remove or cause to be removed any sign or sign structure not removed in accordance with a Remove Order after thirty (30) days from receipt of such order, and to assess the recipient of such order with the cost of such removal.
- (4) To issue citations for any violation of this Ordinance in accordance with Section 802.
- (5) To issue an Unsafe Sign Notice should the Sign Enforcement Officer find that any sign has become insecure in imminent danger of falling or otherwise unsafe. An Unsafe Sign Notice shall be delivered to the sign owner or to the owner of record of the real property whereon the sign is located in the same manner as set out for a Violation Notice except that the recipient of the notice shall forthwith in the case of immediate danger and in any case within then (10) days, of receipt, secure the sign in a manner to be approved by the Sign Enforcement Officer in conformance with the provisions of this Ordinance or remove such sign. If the notice is not complied with in ten (10) days, the Sign Enforcement Officer shall remove such sign at the expense of the recipient of the notice.

##### 801. Appeals.

Violation Notices and Remove Orders issued by the Sign Enforcement Officer may be appealed to the City Council of the City of Marion within thirty (30) days of receipt thereof. Pending appeal, the time limits set out in the notice or order shall be suspended. If the City Council finds that the action of the Sign Enforcement Officer has been taken for good cause and in accordance with the terms of this Ordinance, it shall so find and the time period for compliance shall run from the issuance of that board's finding. If the City Council sustains the appeal of the petitioner, no further action will be taken by the Sign Enforcement Officer.

##### 802. Violations and Penalties.

After due notice and order as provided above for any violation of the terms of this ordinance, the Sign Enforcement Officer shall issue a citation imposing a penalty of not more than one hundred dollars (\$100.00) on the owner of the sign in question or on the owner of record of the real property whereon the sign is located whenever the owner of the sign cannot be located and notified of said citation. In the case of continuing violation, each twenty-four (24) hour period in which the violation exists shall constitute a separate violation. In addition to the above described penalty, the city may enforce this Ordinance by any one or



more of the remedies authorized by the North Carolina General Statutes, with the exception of 153A-123(b).

# ARTICLE IX LEGAL STATUS PROVISIONS

## 900. Conflict With Other Laws.


Wherever the regulations of this Ordinance impose more restrictive standards than are required in or under any other Ordinance or statute, the requirements of this Ordinance or statute require more restrictive standards than are required by this Ordinance, the provisions of such other Ordinance or statute shall govern.

## 901. Separability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

## 902. Effective Date.

This Ordinance shall take effect and be in force on and after the date of its adoption by the City Council of the City of Marion, this the 20th day of June 20, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Mayor Clark asked if everyone who owned a sign and/or billboard would be notified of the changes. He was informed that they should be notified.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to appoint the Building Inspector and Zoning Administrator as the Special Enforcement Officers for the City of Marion.

**SCENIC CORRIDOR ORDINANCE:** Upon a motion by Councilman Tyler, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following ordinance:

## SCENIC CORRIDOR DESIGNATION ORDINANCE OF THE CITY OF MARION

### TITLE

This ordinance shall be known and may be cited as the "Scenic Corridor Designation Ordinance of the City of Marion, North Carolina".

### ARTICLE I AUTHORITY

This Ordinance is established by the City Council of the City of Marion, North Carolina, pursuant to the authority conferred in Section 153A-121(a) of the North Carolina General Statutes and pursuant to Section 502 (7) of the "Off-Premise Sign Control Ordinance of McDowell County, North Carolina." The City Council hereby ordains and enacts into law the following articles and sections.

### ARTICLE II SCENIC CORRIDORS

For purposes of establishing areas which are particularly beautiful and which offer the most outstanding views of the natural grandeur of our mountains, as seen by the public while traveling on the roads and highways in the City of Marion, North Carolina, the following areas are designated as Scenic Corridors in which no off-premise outdoor advertising signs may be erected:

All of that portion of the By-Pass for U.S. Highway 221 located within the City Limits of the City of Marion, North Carolina, with the exception of the following two (2) segments:

1. Beginning at a point 2,000 feet South of the beginning of the Exit ramp to Sugar Hill Road for Northbound traffic (on both directions of travel for

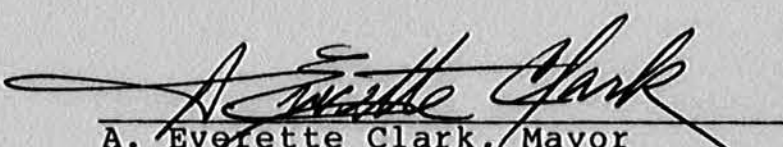


the roadway) and running to a point 2,000 feet North of the beginning of the Exit Ramp for Sugar Hill Road for Southbound traffic (on both directions of travel for the roadway); and

2. Beginning at the intersection of the U.S. Highway 221 By-Pass with U.S. Highway 70 and spanning from said intersection to the Northern terminus of said By-Pass at its intersection with U.S. Highway 221 and N.C. Highway 226.

**ARTICLE III  
EFFECTIVE DATE**

This Ordinance shall take effect and be in force on and after the date of its adoption by the City Council of the City of Marion, North Carolina, this 20th day of June, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**1988 TAX ADJUSTMENTS:** The City Manager stated that the Tax Collector had been working on the water rates and had not been able to get the tax adjustments together. He stated

that they would be presented at the next regular meeting of Council.

**RESCIND DOWNTOWN ADVISORY BOARD ORDINANCE:** The City Manager stated that since the Downtown Business Association had been formed and they were a separate non-profit corporation, the Downtown Advisory Board Ordinance needed to be rescinded.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council voted unanimously to rescind the Downtown Advisory Board Ordinance.

**AGREEMENT - P.G. VOLUNTEER FIRE DEPARTMENT, INC.:** The City Manager presented an agreement with the P.G. Volunteer Fire Department, Inc. to Council. He stated that a copy of the agreement had been given to Mr. Dale Ballew of the fire department and he had no problems with the agreement.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to enter into the following agreement with P.G. Volunteer Fire Department, Inc.

**TRAFFIC ORDINANCES - CLINCHFIELD AND 5-LANE AREAS:** Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following ordinances as recommended by the Street Committee and Chief of Police:

**TRAFFIC AND PARKING ORDINANCES**

**CLINCHFIELD AND 5 LANE AREAS**

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 the speed limits listed below upon any street or portions of streets listed below:

STREET NAME	CURRENT SECTION	REG LIMIT	REG APPLICATION
4TH ST	123	25 MPH	LENGTH OF RD
5TH ST	123	25 MPH	LENGTH OF RD
6TH ST	123	25 MPH	LENGTH OF RD
7TH ST	123	25 MPH	LENGTH RD
BRANCH ST	123	25 MPH	LENGTH OF ST
CHURCH ST	123	25 MPH	LENGTH OF RD
CIRCLE LANE	115	20 MPH	LENGTH OF RD
CIRCLE ST	123	25 MPH	LENGTH OF RD
CLINCHFIELD LOOP	115	20 MPH	LENGTH OF RD
FINLEY	123	25	LENGTH OF STREET.
FOREST HILL DR	?	15	ENTIRE LENGTH
GREENWOOD ST	123	25 MPH	LENGTH OF RD



HIGH STREET	115	20 MPH	LENGTH OF RD
HILL ST	123	25 MPH	LENGTH OF RD
HWY 70 WEST	7-1051	35	FROM INTERSECTION OF U.S. 221N TO
CITY LIMIT.			
HWY 70/221	119	45	FROM VALLEY STREET TO CITY LIMIT
	7-1051	35	LOGAN TO VALLEY STREET.
LAMAR ST	123	25 MPH	LENGTH OF RD
MACHINE SHOP RD.	123	25	ENTIRE ROAD.
MAIN ST	123	25 MPH	LENGTH OF RD
MARTIN RD	115	20 MPH	LENGTH OF RD
MCDOWELL AVE	115	20 MPH	LENGTH OF ST
NORTON ST	115	20 MPH	LENGTH OF ST
OAK ST	115	20 MPH	LENGTH OF RD
RIDGE RD	7-1051	35 MPH	LENGTH OF RD
SCHOOL ST	123	25 MPH	LENGTH OF RD
SHORT ST	115	20 MPH	LENGTH OF RD
TANK	123	25	LENGTH OF ST.
VALLEY	123	25	ENTIRE LENGTH OF STREET.
VIRGINIA RD	123	25 MPH	LENGTH OF RD

Section 2. 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:

STREET NAME	CURRENT SECTION	REG APPLICATION
4TH ST	101	PROHIBITED EITHER SIDE LENGTH OF ST.
	101	PROHIBITED EITHER SIDE OF ST.
STREET NAME	CURRENT SECTION	REG APPLICATION
5TH ST	101	PROHIBITED EITHER SIDE ST.
6TH ST	101	PROHIBITED EITHER SIDE OF ST.
7TH ST	101	PROHIBITED EITHER SIDE OF ST.
BRANCH ST	101	PROHIBITED EAST SIDE LENGTH OF ST
CHURCH ST	101	PROHIBITED EITHER SIDE LENGTH OF ST
CIRCLE LANE	101	PROHIBITED EITHER SIDE LENGTH OF RD
CIRCLE ST	101	PROHIBITED EITHER SIDE LENGTH OF RD
CLINCHFIELD LOOP	101	PROHIBITED EITHER SIDE LENGTH OF RD
FINLEY	101	PROHIBITED EITHER SIDE OF STREET.
FOREST HILL DR	101	PROHIBITED EITHER SIDE OF STREET
GREENWOOD ST	101	PROHIBITED EAST SIDE LENGTH OF RD
HIGH STREET	101	PROHIBITED EAST SIDE LENGTH OF RD
HILL ST	101	PROHIBITED EITHER SIDE LENGTH OF RD
HWY 70 WEST	101	PROHIBITED EITHER SIDE OF ROAD.
HWY 70/221	101	PROHIBITED EAST AND WEST SIDE OF ENTIRE ROAD.
LAMAR ST	101	PROHIBITED EITHER SIDE LENGTH OF ST
MACHINE SHOP RD.	101	PROHIBITED EITHER SIDE OF ROAD.
MAIN ST	101	PROHIBITED EITHER SIDE LENGTH OF RD
MCDOWELL AVE	101	PROHIBITED EITHER SIDE AZALIA TO OAK
NORTON ST	101	PROHIBITED NORTH SIDE, LENGTH OF RD
OAK ST	101	PROHIBITED LENGTH OF STREET
RIDGE RD	101	PROHIBITED EAST SIDE LENGTH OF RD
SCHOOL ST	101	PROHIBITED NORTH SIDE, LENGTH OF RD
SHORT ST	101	PROHIBITED SOUTH SIDE LENGTH OF RD
TANK	101	PROHIBITED NORTH SIDE
VALLEY	101	PROHIBITED NORTH SIDE OF STREET
VIRGINIA RD	101	PROHIBITED WEST, & NORTH SIDE LENGTH OF RD

Section 3. When signs are erected giving notice thereof, it shall be unlawful for any person to operate a vehicle, on any streets or portions of streets listed below, except in the direction designated by said signs and described below:

REGULATION TYPE	STREET NAME	CURRENT SECTION	REG APPLICATION
ONE WAY	SHORT ST	110	ONE-WAY FLOW INTERING WEST
END AT VIRGINIA RD AND EXIT EAST			
AND AT CHURCH ST			

Section 4. When signs are erected giving notice thereof, it shall be unlawful for any person to drive a vehicle into any intersection without first bringing such vehicle to a complete stop on those streets listed below:

STREET NAME	CURRENT SECTION	REG LIMIT	REG APPLICATION
4TH ST	109	STOP	AT 6TH ST, SOUTH BOUND



STREET NAME	109 CURRENT SECTION	STOP REG LIMIT	AT HWY 70 EAST REG APPLICATION
5TH ST	109	STOP	AT 4TH ST
6TH ST	109	STOP	AT LAMAR
7TH ST	109	STOP	AT LAMAR
BRANCH ST	109	STOP	AT 4TH STREET
CHURCH ST	109	STOP	AT LAMAR
CIRCLE LANE	109	STOP	AT 70 EAST
CIRCLE ST	109	STOP	AT SCHOOL ST
CLINCHFIELD LOOP	109	STOP	HWY 70 EAST
FINLEY	109	STOP	AT CHRUCH ST
FOREST HILL	109	STOP	AT MAIN ST
GREENWOOD ST	109	STOP	AT CHURCH ST
HIGH STREET	109	STOP	AT MAIN
HILL ST	109	STOP	AT VIRGINIA.
LAMAR ST	109	STOP	AT RIDGE RD
MAIN ST	109	STOP	AT VIRGINIA
MARTIN RD	109	STOP	AT MACHINE SHOP ROAD.
MCDOWELL AVE	109	STOP	AT VALLEY ST.
NORTON ST	109	STOP	AT OAK ST
OAK ST	109	STOP	AT OAK ST
RIDGE RD	109	STOP	AT 4TH ST
SCHOOL ST	109	STOP	AT 5TH ST
SHORT ST	109	STOP	AT VIRGINIA
VALLEY	109	STOP	AT SCHOOL
			AT VIRGINIA RD
			AT OAK
			AT AZAELIA, SOUTH BOUND
			AT OAK
			WEST END OF NORTON AT 5TH ST
			AT NORTH MCDOWELL
			SOUTH END AT VIRGINIA
			AT RIDGE
			AT VIRGINIA RD WEST END
			AT CHURCH ST
			AT VIRGINIA RD
			AT HWY 70/221.

Section 5. 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 6. This ordinance shall be in full force and effect on June 30, 1989.

ATTEST:

*J. Earl Daniels*  
J. Earl Daniels, City Manager/City Clerk

*A. Everette Clark*  
A. Everette Clark, Mayor

Ordinance Number 0-89-20-06-03

**SET NEXT MEETING - BUDGET AND UTILITY RATES:** The City Manager stated that he would like Council to set a special meeting for the purpose of discussing the 1989-1990 Budget and proposed increase in Water/Sewer Rates.

The meeting was scheduled for Thursday night, June 22, 1989 at 7:00 P.M. in the City Council Chamber.

**1989-1990 BUDGET:** Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the 1989-1990 Budget as amended.

#### BUDGET ORDINANCE

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

Section 1. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the fiscal year beginning July 1, 1989 and ending June 30, 1990 in accordance with the chart of accounts heretofore established for the City:

Administration

\$ 253,410



Purchasing & Warehousing	46,090
Inspection and Community Development	91,652
Police Department	646,700
Fire Department	194,660
Public Works Administration	78,300
Fleet Maintenance	68,590
Street Department	596,720
Powell Bill	146,000
Sanitation	197,060
Cemetery	29,110
Recreation	60,500
Non-Departmental	356,749
<b>TOTAL</b>	<b>\$2,765,541</b>

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Prior Year's Taxes	\$ 20,000
Current Taxes	917,000
Inventory Tax	256,000
Downtown Dev. Mun. Serv. Dist.	15,000
Tax Penalties & Interest	4,500
Privilege License Sales	15,000
Interest Earned	46,000
Rents and Concessions	18,500
Misc. Revenue	10,000
Utilities Franchise Tax	317,000
Intangibles Tax	46,000
Beer/Wine Tax Revenue	20,800
Powell Bill Allocation	111,000
Sales & Use Tax	244,500
Sales Tax Refund	25,000
ABC Revenues	100,000
ABC Officer Revenues	6,500
Court Costs, Fees & Charges	4,000
Parking Violations	1,600
County Fire Protection	46,800
Cemetery Revenues	10,000
DOT Reimbursement - Curb Work	40,000
Garbage Fees	22,000
Gas Tax Refunds	7,000
Zoning Income-Inspection Fees	2,500
Maint. Traffic Control Devices	2,000
Cable TV Revenue	22,000
Sale of Surplus Equipment	1,000
Transfer from W/S Fund	100,000
Surplus Appropriated	333,841
<b>TOTAL</b>	<b>\$ 2,765,541</b>

Section 3. The following amounts are hereby appropriated in the Debt Service Fund for the payment of principal and interest on the outstanding debt of the City and the expenses relating thereto for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Principal and Interest on Bonds	\$ 98,850
Service & Miscellaneous Charges	1,150
<b>TOTAL</b>	<b>\$ 100,000</b>

Section 4. It is estimated that the following revenues will be available in the Debt Service Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Transfer from W/S Fund	\$ 100,000
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Section 5. The following amounts are hereby appropriated in the Water/Sewer Fund for the operation of the water and sewer utilities for the fiscal year beginning July 1, 1989 and ending June 30, 1990 in accordance with the chart of accounts heretofore approved for the City:

Utility Line Operations	\$ 503,440
Filter Plant	446,370
Waste Treatment Plant	569,270
Non Departmental	343,529
<b>TOTAL</b>	<b>\$ 1,862,609</b>

Section 6. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Fund Balance	\$ 190,421
Interest Earned	45,000



Water Sales	660,000
Water Taps	17,000
Misc. Income	7,888
Cut-on Fees	800
Sewer Service	627,000
Sewer Taps	20,000
Sales & Use Tax Refund	244,500
State Grant (Water 48504)	
Water Sys. Dev. Charge	15,000
Sewer Sys. Dev. Charge	35,000
TOTAL	\$ 1,862,609

Section 7. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990:

Inventory (Supplies)	\$ 100,000
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Section 8. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Transfer from General Fund	\$ 20,000
Transfer from W/S Fund	20,000
Purchases by Other Funds	60,000
TOTAL	\$ 100,000

Section 9. The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Reserved for Future Appropriations	\$ 453,781
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Section 10. It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 1989 and ending June 30, 1990:

Transfer from General Fund	\$ 219,855
Transfer from Water/Sewer Fund	43,550
Interest on Investments	12,000
Fund Balance Appropriated	178,376
TOTAL	\$ 453,781

Section 11. There is hereby levied a tax at the rate of fifty-nine cents (\$.59) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 1989 for the purpose of raising the revenue listed as "Current Year's Property Taxes" in the General Fund in Section 2 of this Ordinance. These rates are based on estimated total valuation of property for the purpose of taxation of \$161,899,792.00 and estimated rate of collection of ninety-six percent (96%). There is also hereby levied a tax at the rate of fifteen cents (.15) per one hundred dollars (\$100) valuation on all commercial taxable property in the Municipal Service District. The total revenue received will be transferred to the Downtown Business Association.

Section 12. The Budget Officer is hereby authorized to transfer appropriations within a fund as contained herein under the following conditions:

A. He may transfer amounts between objects of expenditure within a department without limitation and without a report being required.

B. He may transfer amounts up to \$1,000 between departments of the same fund with an official report on such transfers at the next regular meeting of the City Council.


C. He may not transfer any amounts between funds nor from any contingency appropriation within any fund.

Section 13. Copies of the Budget Ordinance shall be furnished to the Finance/Budget Officer of the City to be kept on file for direction in the disbursement of funds.

ADOPTED this the       day of June, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk



**BUDGET AMENDMENT - 1988-1989 BUDGET:** Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following Budget Amendment:

**1988 - 1989 BUDGET AMENDMENT**

**CAPITAL PROJECT BUDGET ORDINANCE  
EMERGENCY GENERATOR**

**BE IT ORDAINED** by the City Council for the City of Marion, North Carolina:

**Section 1.** The Capital Project Fund adopted by the City Council on the 8th day of December, 1987 is hereby amended as follows:

- A. Decrease Revenue - City Funds (Local) by \$17,890.46.
- B. Decrease budgeted Generator Set by \$13,813.00
- C. Increase budgeted Installation of Generator set by \$6,713.00
- D. Decrease budgeted Engineering by \$1,811.74
- E. Decrease budgeted Contingencies by \$8,978.72

**Section 2.** The Capital Project Fund as amended by the City Council for the City of Marion on this the 20th day of June, 1989 will read as follows:

**REVENUES**

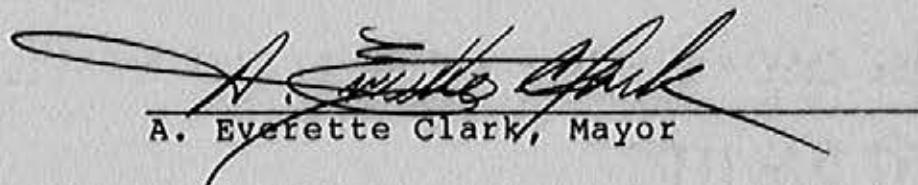
Senate II Funds	\$	38,932.00
City of Marion		<u>42,727.54</u>
Total Project Cost	\$	81,659.54

**EXPENDITURES:**

Generator Set	44,187.00
Installation	31,713.00
Engineering	5,688.26
Contingencies	<u>71.28</u>
Total Project Expenditures	\$ 81,659.54

**Section 3.** Copies of this Amendment to Capital Project Fund shall be furnished to the Budget Officer to be kept on file for the direction in the disbursement of funds.


**ADOPTED** this the 20th day of June, 1989.

  
A. Everette Clark, Mayor


**ATTEST:**

  
J. Earl Daniels, City Manager/Clerk

**ADJOURNMENT:** Upon a motion by Councilman Tyler, seconded by Councilman Stronach, 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

JUNE 22, 1989

The City Council for the City of Marion met in Special Session on Thursday night, June 22, 1989 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Van McKinney, News Reporter, W.B.R.M.; and Eric Milsaps, News Reporter, The McDowell News.

Mayor Clark called the meeting to order and stated that the purpose for the meeting was to discuss the proposed water and sewer rate increases.

The City Manager presented a rate schedule and several tables containing information on the proposed costs to the water and sewer customers to Council. A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following water and sewer rates to be effective with the August 1, 1989 billing:

CITY OF MARION, NORTH CAROLINA  
WATER AND SEWER RATES  
Effective with August, 1989 Billings

**WATER RATES**

Gallonage	Inside City	Outside City
Min. - 2,000 gal	\$2.00	\$4.00
0 to 20,000 gal	\$1.20 per 1,000 gal	\$2.60 per 1,000 gal
Over 20,000 gal	\$ .50 per 1,000 gal	\$1.00 per 1,000 gal
Service Charge added to each account	\$3.00	\$6.00

**SEWER RATES**

Gallonage	Inside City	Outside City
Min. - 2,000 gal	\$2.00	\$4.00
0 to 100,000 gal	\$1.40 per 1,000 gal	\$2.80 per 1,000 gal
Over 100,000 gal	\$ .90 per 1,000 gal	\$1.80 per 1,000 gal
Over 1 Million	\$ .86 per 1,000 gal	\$1.72 per 1,000 gal
Service Charge added to each account	\$5.00	\$5.00

**SEWER ONLY**

- (a) Single Family Residence \$12.00 per month or metered.  
(b) All others to be metered.

**MR. CALVIN WILLIS - TAP ON TO CITY SYSTEM:** Mayor Clark stated that Mr. Calvin Willis had talked with him concerning his application to tap onto the City Water and Sewer System. Mr. Willis had stated that he had put in an application to tap onto the system prior to the rate increase and he felt that he should be allowed to pay the old rates for tap-ons to the system. Councilman Tyler stated that Mr. Willis had talked to him as well concerning the fees.

Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to allow Mr. Willis to tap onto the City Water and Sewer System at the old rates since his application had been turned in prior to the rate increase.


The City Manager asked if other persons they would be eligible to have the tap-ons at the old rates? Council agreed that the exception was for Mr. Willis only and other persons having made formal application for taps prior to the new rates should appear before Council.

**RESCHDEULE REGULAR MEETING FOR JULY 4, 1989:** The City Manager stated that the next Regular Scheduled meeting was set for July 4, 1989. A short discussion followed. Council agreed to only have one meeting on July 18, 1989 for the month of July.

**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

July 18, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, July 18, 1989 at 7:00 P.M. in the City Council Chamber.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Angus Stronach, Robert Ayers, John Cross, and Joe Tyler. Councilman Steve Little arrived at 7:10 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Officer Nora Arrowood; Sergeant Arthur O'Dear; Lydia Carrington, News Reporter, The McDowell News; Myrna Woody, City Intern; and Officer Randy Slagle.

**GUESTS PRESENT:** Mr. John Elliott, 221 Nix Creek Road and Mr. Christopher Flynn, 221 Nix Creek Road.

**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 June 20 and June 22, 1989 meetings.

**MR. JOHN ELLIOTT - CAR REPAIR ESTIMATES:** Mr. John Elliott and Mr. Christopher Flynn appeared before Council concerning a traffic accident Mr. Flynn had after striking an uncovered manhole.

Officer Randy Slagle stated that he was dispatched to the scene from a report that the manhole cover was flipped up and not covering the manhole properly. Officer Slagle stated that when he got to the scene, he could only find pieces of the manhole cover. He stated that he saw Mr. Flynn changing a flat tire approximately three hundred feet from the manhole. Officer Slagle stated that he asked Mr. Flynn what had happened and he told him that he had seen something in the road and tried to dodge it, however, his rear wheel hit the open manhole. Mr. Flynn reported that he had driven approximately two to three hundred feet before the rear tire went flat.

Mr. Elliott presented two estimates to repair his vehicle to Council. A short discussion followed.

Councilman Stronach made a motion to pay Mr. Elliott \$316.60 for the damages to his vehicle provided he would sign a release form to release the City from any additional claims. The motion was seconded by Councilman Tyler.

Councilman Little asked to abstain from the vote because he was not present for the discussion. There were no objections.

The question was called and the vote was unanimous.

**MR. CHARLIE ADAMS - REQUEST - TAP ON TO CITY SEWER SYSTEM:** Mr. Charlie Adams, owner of Charles Adams Brokerage, Inc. and C & J Trucking appeared before Council concerning his request to tap onto the City sewer system.

Mr. Adams stated that he was just outside the City Limits in the 5 - Lane/Hwy 221 N area. He stated that his business dealt with cleaning trucks and trailers for Baxter Travenol. He stated that the discharge from his business was a small amount, however, for environmental purposes, the discharge was considered industrial waste.

Mr. Adams stated that he was interested in making a verbal petition to Council to request his property be annexed into the City. He stated that he would be willing to grant easements to the City to provide the services to the other businesses in the area. Mr. Adams stated that the businesses were in a critical situation with the persons from EPA.

Mayor Clark stated that the City wanted to help in any way that they could. He stated that the only problems were the money needed for the project and how quickly the project could begin.

Mr. Adams thanked the Council for their time and consideration in the matter.

The City Manager stated that while they were discussing the subject, he had an additional request that someone be allowed to discharge into the City's Waste Treatment Facility. He stated that this person had the "port-a-johns" in the County. A short discussion followed.

Councilman Little stated that he felt that the problems and new regulations required for the Waste Treatment Facilities would be an excellent subject for the NATaT (National Association of Towns and Townships) to follow up on.



Councilman Ayers stated that he felt that it was a serious problem when you had to make decisions which could cause a person to go out of business.

**COUNTY BUILDING PERMIT FEES:** The City Manager stated that Council had discussed the possibility of adopting identical fees to the County for building permits, sign permits, etc. to cause less confusion to the persons purchasing the permits. He stated that in the process of getting the fees from the County, he was informed that they were changing their fees. He stated that he would like to present this matter at a later date after the County had amended their fees. There were no objections.

**COUNTY SIGN/BILLBOARD PERMIT FEES:** As a result of the discussion earlier concerning building permit fees, Council agreed to hold this matter until a later date as well.

**CHAIRS FOR COUNCIL CHAMBERS:** The City Manager stated that he had a chair from a local merchant in the style that Council had chosen for the Council Chambers for their closer inspection. He stated that he would like for Council to pick a color for the chairs. Council agreed to choose a dark brown color of chairs for the Chamber.

**HICKORY CONSTRUCTION COMPANY - CHANGE WORK ORDER #2:** The City Manager presented Change Work Order #2 - Hickory Construction Company to Council as follows:

1. Use Trojan in lieu of Fischer and Porter UV System	\$1,633.00
2. Provide aeration tank anchorage	3,156.00
3. Deduct for concrete - change in tank foundation slab size	(360.00)
Total Addition	\$ 4,429.00

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to approve Change Work Order #2 - Hickory Construction Company as outlined above.

**HICKORY CONSTRUCTION COMPANY - CHANGE WORK ORDER #3:** The City Manager presented Change Work Order #3 - Hickory Construction Company to Council as follows:

1. Total Deduct - Bid Schedule Items # 1 - # 7	\$ 3,475.00
2. Less - Item 1 - Extra Rock Excavation	(390.00)
3. Less - Item 2 - Extra Rock around Tank	(267.00)
Total Deduct	\$ 2,818.00

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to approve Change Work Order #3 - Hickory Construction Company as outlined above.

Mayor Clark asked if a total cost for the project had been arrived at yet. The City Manager stated that he would have the totals on the project at the next meeting.

**WHEELER CONSTRUCTION COMPANY - COMPLAINTS:** The City Manager stated that he had received several complaints from persons due to the work on the 5 - Lane Waste Treatment Facility. The complaints were as follows:

1. Ms. Dolly Smith - Persons from Wheeler Construction used water from her residence. The amount was \$2.08 over the minimum bill which her bill usually is. The amount was adjusted and the excess is to be charged to Wheeler Construction.
2. Ms. Jackie White - Miss Jacie's School of Dance: The persons working for Wheeler ruined the asphalt at her business and used water from there to wash their vehicles. She is to submit a formal complaint at a later date.
3. Mr. Troy Proctor - (Owns property across from M & M Supermarket). The fence around his property was damaged and the property was damaged as well. He would like to have the fence replaced and the property put back into place.
4. Mr. Jack Brown - Robo Car Wash: He has requested that he be reimbursed for the time his business has been closed due to the construction. The City Manager stated that he had talked with Mr. Brown and that he would provide records with the amount of money he made this time last year for the same period of time. The City Manager stated that a large hole had been dug in front of his business and a lot of mud and dirt had caused him to close.



5. Darrell Ford - Mercury: Request \$555.00 to reimburse cost to wash vehicles at his business covered with dirt from the construction. The claim was denied by Wheeler's Insurance company. The dirt could also have been from construction of the Marion By-Pass.

6. Fisher Car Accident: Mrs. Charles Fisher was involved in a car accident. Mrs. Fisher hit one of the construction vehicles while trying to avoid the construction. The mirror and door panel was damaged. It is our understanding that Mr. Wheeler paid for the damage from his own pocket.

7. TCI Cablevision: Requests payment for repairs to three cut cables on May 31, 1989. (\$200.00).

8. Mr. Jerry Pritchard - The McDowell House: Requests the building be cleaned due to the large amount of dust on his building. (\$315.00).

9. Ballew Motor Company: Requests reimbursement for propane when a line was broken during construction. (\$414.23).

The City Manager stated that he would like these complaints documented and hold the final remittance to Wheeler Construction until these complaints and any other complaints are resolved.

Councilman Stronach stated that he felt it was unfortunate that the problems had occurred. He stated that he felt that the plans and contracts signed prior to construction should be noted. He stated that he did not feel that the City should pay if they were not liable.

Councilman Cross stated that he felt each claim should be gone over case by case at a later date. Council was in agreement.

POLICE DEPARTMENT - SPACE NEEDS - CHIEF GILSDORF: Sergeant Arthur O'Dear and Officer Nora Arrowood presented a memorandum to Council from Police Chief Bill Gilsdorf concerning problems the department is experiencing due to a lack of space.

The memorandum stated that when a person was brought in for questioning, the only place to question the person was in the breathalyzer room. When that room was in use, the persons had to wait in the lobby of the department. The memorandum stated that in the event of an emergency or attempted escape, persons in the lobby area could be injured.

The City Manager stated that the memorandum offered several suggestions of using the back bays, the basement of the Community Building, use a part of the fire meeting room, use buildings on Court Street or the hallway of the City Council Chamber. The City Manager stated that the problems with relocation of a part of the department would mean moving the alarm systems, telephone lines, etc. which would be very expensive.

Mayor Clark stated that he felt it was time for Council to be looking very closely at the possibility of construction of a new building. He stated that if a new building was not constructed, renovations would have to be made to the existing building which would be almost as expensive as construction of a new facility.

The City Manager stated that if a new building was to be constructed, a bond referendum would have to be presented to the public. He stated that he would like to suggest that the item be put to a vote in early January so it would not interfere with the election in November. He stated that if they would like to set January as a possible date for the referendum, steps needed to be taken now toward that goal.

Councilman Little suggested that a special meeting be set for discussion of the project.

Councilman Cross stated that he would like to go ahead and inform the public of the plans so that they could get feedback and could deal with problems if there were any.

Councilman Tyler stated that he felt that Officer Arrowood, who was using the lobby of the police department as her office area could move over to the Council Chamber.

Councilman Cross stated that he thought if the City Manager and Mayor met with the volunteer firemen and presented the plans to build the new building, they would be more agreeable to allow the police department to use a part of their space if they were allowed to use the Council Chambers for their weekly meetings. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to immediately begin the process of working toward building a new City Hall facility including all departments, administration, fire and police



departments.

**REPORT - POLICE DEPARTMENT - LIGHTING SURVEY:** Officer Nora Arrowood stated that she had been in contact with a person who is scheduled to conduct the lighting survey in the parking lots and other dark areas in the City Limits. Officer Arrowood stated that she would like permission to spend \$107.50 for the rent on the light meter machine. Council agreed to proceed with conducting the survey.

**ANNUAL CERTIFICATION OF FIREMEN:** Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve the Annual Certification of Firemen as follows:

**1987 - 1988 TAX ADJUSTMENTS:** Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the following tax adjustments:

1987 TAX ADJUSTMENTS

<u>NAME</u>	<u>REASON</u>	<u>AMOUNT</u>
Coca Cola Bottling Company	Billed for warehouse located outside City	\$ 1,456.33

1989 TAX ADJUSTMENTS

Ali, Shamshad	vehicle billed on account for Marion Pediatric	29.91
Arrington, Tammy R.	moved Jan 1, 1988, outside City limits to Ashworth Est.	43.87
Black, Jeffrey L.	lives outside City limits on Hill Street for 4 years	44.37
Carter, Brenda D.	outside City limits	67.05
Cline, T.R.	no late listing - County confirmed	23.68
Coca Cola Bottling	billed for vehicles & equip. located on Hwy 221 - warehouse	2,006.00
Conley, Governor G.	lives outside City limits on Yancey Road	12.27
Cook, John H.	vehicle located outside City	55.46
Cooper, Walter J.	due Senior Citizen exemption of \$12,000.00	70.80
Cothran, Roger L.	no late listing, County confirmed	103.63
Cross Cotton Mill	duplicate bill - see act. #2551024	114.87
Davis, Wesley L.	moved, Feb. 1987 to Shelby, NC	42.66
Edwards, Gregory M.	vehicle located and stored in Pleasant Gardens	92.57
Edwards, Michael A.	moved to Pleasant Gardens June 1987	2.77
Edwards, Sharon L	moved to Pleasant Gardens June 1987	87.23
Family Dollar Store	billed for personal property at store located outside City Limits	60.98
Finley, James D.	property outside City limits	16.99
Foster, Gurley Jr.	lives outside City limits, receives mail at business - located at 27 State Street	3.54
Gelco Corporation	overbilled for vehicle located	39.96



	outside City limits	
Gentry, Oscar & Christine	no late listing penalty	59.85
Gentry, Oscar & Christine	no late listing penalty	40.53
Gibson, Margaret	lives outside City limits Clinchfield - since Sept. 1987	28.26
Helton, Clarence	deceased before notices were mailed - left no estate	3.30
Honeycutt, Millie A.	lives outside City limits on Veterans Drive	41.01
Jarrett, Steven E.	lives outside City limits in Old Fort	14.93
Jenkins, Floyd	real estate located outside City Limits 19C-7-3	75.06
Kehler, William & Helen	no late listing penalty, signed and dated Jan 26, 1988	71.90
McKinney, Dover & Voncie	billed for mobile home located in Old Fort	86.08
McKinney, Florence	personal property, mobile home located in Nebo	54.22
Pless, Marjorie (Heirs)	property sold to City of Marion	178.38
Poole, Cary & Helen	lives outside City limits in Nebo for 2 1/2 years, receives mail at 513 W. Henderson	32.04
Poole, Lisa M.	lives outside City limits in Nebo for 2 1/2 years, receives mail at 513 W. Henderson	31.03
Rankin, Edwin E.	real estate outside City limits (Oakcrest Development)	138.04
Reel, John David	lives outside City limits on Reid Street, receives mail at 603 Ridgecrest Drive	108.15
Riddle, Jeffrey & Willie	lives outside City Limits , 609 Pine Street	32.32
Riddle, Willie R.	lives outside City limits 609 Pine Street	2.77
Smith Furniture	duplicate bill, personal property value of 8,740 billed on account #7605001	51.57
Seagle Lumber Co.	vehicle sold in December, 1987 value \$9,210	59.77
Truesdale, Willis	no late listing penalty	1.00
	TOTAL	\$ 4,028.22

#### REPORTS:

1. LIGHTS - CLINCHFIELD AND 5 - LANE: The City Manager stated that the lights had been ordered for Clinchfield and the 5 - Lane and that Duke Power had been furnished with maps for placement of the lights.

2. RETIREMENT PARTY - SERGEANT BILL CONNER: Officer Arrowood stated that she would like to remind Council of the retirement party for Sergeant Bill Conner on Thursday, July 26, 1989 at 4:15 P.M.

3. CRIMESTOPPERS - UPDATE: Officer Arrowood stated that she was still trying to obtain information concerning the Crimestoppers program and would pass



the information along as soon as she received it.

**4. COMMUNITY BANK - SIDEWALKS:** The City Manager stated that he had been in contact with representatives of Community Bank and Trust concerning a new sidewalk. He stated that the Street Committee had offered to allow a new sidewalk to be installed along beside the bank building on Court Street if they would pay for the concrete. The official had agreed and had also requested that the sidewalk on Main Street be redone with them paying for the concrete. The City Manager stated that the City could put in new sidewalks on the rest of Main Street if the store owners would pay for the concrete as well. Council agreed it would be a worthwhile project.

**5. CLEANING OF BRANCHES - SMALL CREEKS:** The City Manager stated that it was City Policy to periodically clean drainage culverts, but not the branches. He asked if Council would object to the City providing plastic bags if property owners cleaned the branches behind their houses. He stated that if they would move stumps to where a backhoe could get to them, would Council object to the backhoes being used to remove them. Council did not object.

**6. DRAINAGE WATER - MARION BY-PASS:** The City Manager stated that he had sent a letter to Mr. Tony Moore of D.O.T. requesting information on how D.O.T. planned to control the drainage water from the By-Pass but had not received any further information.

**7. COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that he would like to have the signal light at the Community Building parking lot be moved slightly so that persons coming out of the lot would be able to see. The City Manager stated that a new light had been ordered for the area.

**8. STREET COMMITTEE - LIST OF PRIORITIES:** The City Manager stated that the Street Committee had met and a list of priorities for the paving and curb and gutter work had been compiled. He presented each member with a list.

**9. COUNCILMAN AYERS - COMMENTS:** Councilman Ayers stated that he would like to mention some potholes on Main Street in front of Heileg Meyers. He stated that he would also like to ask if trucks unloading in front of the store on Main Street could unload at the rear of the store. He stated that when a truck was parked there another truck could hardly get through the street. He asked if someone could check into the matter.

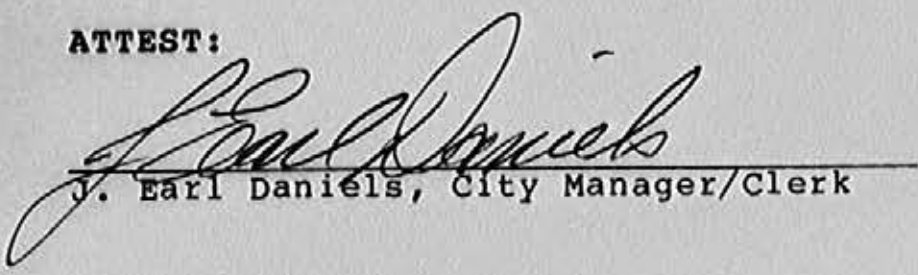
**10. COUNCILMAN CROSS - COMMENTS:** Councilman Cross stated that he had received several complaints about the upkeep of the Recreation Field on West Court Street. The City Manager stated that he had written a letter to Wayne Tucci and had talked with him earlier today concerning the problem.

**11. CODE OF ORDINANCES - UPDATE:** The City Manager stated that he had requested an extension until September 15, 1989 to return the material for the final printing of the Code.

**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

August 8, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, August 8, 1989 at 7:00 P.M. in the City Council Chamber.

**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; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Larry Ballard, Utility Supervisor; Aaron Adams, Street Supervisor; Officer Nora Arrowood, Police Department; Sergeant Arthur O'Dear, Police Department; Eric Milsaps, News Reporter, The McDowell News; and Van McKinney, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. Chad Effler, Boy Scout Troop 818; Mr. Frank Queen, Marion Equipment Company; Mr. Jim Goldsmith, Marion, N.C.; Mrs. Mel Hyde, 301 Sinclair Ave.; Mrs. Mamie Hollifield, 303 Sinclair Ave.; C. Walter Morgan, 305 Sinclair Avenue; Mrs. Blanche Wilkerson, 308 Vale Street; Mrs. Ruth Laughlin, 316 Vale Street; Mrs. Velma Elliott, 310 Vale Street; Mr. Jesse Elliott, 310 Vale Street; Mr. & Mrs. Gerald Jennings, 302 Rutherford Road; Ms. Emily E. Morris, 205 Rutherford Road; Mrs. Charlotte Reel, 314 Vale Street; Mrs. Ruby Hawkins, 318 Vale Street; and Mr. Gerald E. Sicard, Marion, N.C.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the July 18, 1989 meeting.

**RECOGNITION - MR. CHAD EFFLER - BOY SCOUT TROOP 818:** Mayor Clark stated that he would like to recognize Mr. Chad Effler of Boy Scout Troop 818. He stated that Mr. Effler was working on a requirement to obtain the Eagle Scout status.

Mr. Chad Effler stated that he was lacking a Citizenship Badge and one requirement was that he attend a City Council meeting. He stated that this was the last requirement he had to complete before he could obtain the Eagle Scout status.

**COMPLAINT - BRANCH - RUTHERFORD ROAD AND VALE STREETS:** The City Manager stated that several ladies from the Vale Street, Rutherford Road area had visited him concerning problems with a branch in the area.

The City Manager stated that he had explained to the ladies that City Policy covered only cleaning box drains on streets and culverts under streets. He stated that the branch behind the homes is private property and the City has no authority to work in that area. He stated that the policy had been in effect prior to 1972 and if the policy were changed, it would effect the entire City, not just one area.

The City Manager presented a video recording of the areas around Vale Street, Rutherford Road, Spring Street, Lincoln Avenue, and Sinclair Avenue.

Mrs. Charlotte Reel stated that she did not understand why the City considered the areas behind their homes as private property when the water that ran into the area from rain was everyone's water. She stated that she had talked with a City Engineer from another City and that she had been informed that the branch was the City's responsibility to take care of.

Councilman Ayers advised that he had the same problem at his residence on Glenview Street. He stated that the City was powerless on private property. He stated that some of the streets the ladies had mentioned were on the State Street System and responsibility should be to the State and not the City.

Mrs. Emily Morris stated that if the City did not have a right-of-way to clean the branch in her yard, why were they allowed to come through her yard and work on the sewer lines.

Mayor Clark stated that when the sewer lines were put in, the City had obtained an easement to allow them to work on the sewer lines and to be able to get to them if there was a problem.

Councilman Stronach stated that he would like to recommend that the matter be referred to the Utility Committee. Mayor Clark was in agreement.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to refer the matter to the Street Committee and the Utility Committee.

**REPORT - BID OPENING:** The City Manager stated that a bid opening had been held on Monday, August 7, 1989 at 10:00 A.M. in the City Council Chamber. He stated that the following bids had been received:

1. 1 - New 2-1/2 Ton Dump Truck with Bed: Only one bid had been received from Ken Wilson Ford, Canton, North Carolina. The bid had not been opened.

The City Manager stated that bids had been sent to Ken Wilson Ford and the local dealers, however, the local dealers had not submitted a bid. He informed Council that one local dealer had called today and asked if it was too late to submit the bid and was informed that the bid opening was the day before.

The City Manager stated that he had been in contact with the Institute of



Government and had been informed that Council could open the bid and accept the bid or they could re-bid the truck. Council agreed to open the bid.

The net prices were as follows:

Gasoline Engine - \$24,205.00  
Diesel Engine - 27,501.00

Delivery was to be one hundred twenty days from receipt of purchase order. A bid deposit of five percent was enclosed.

Public Works Director Glen Sherlin stated that he felt that the bid was reasonable and that the price was slightly under the amount budgeted. He stated that they did prefer the diesel engine over the gasoline engine.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to accept the bid of Ken Wilson Ford in the amount of \$27,501.00 for a new two and one half ton dump truck with bed.

2. 2 - New Refuse Scooter Type Vehicles: The City Manager stated that only one bid had been received from Carolina Industrial Equipment Company and it had not been opened. Council was in agreement to open the bid.

The bid was as follows:

\$27,589.32 for two Cushman Type Scooters

Delivery is to be 60 days after receipt of purchase order. A deposit of 5% was included.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to accept the bid of Carolina Industrial Equipment in the amount of \$27,589.32 for two Cushman Type Scooters.

3. 1 - New Farm Tractor with Box Blade: The City Manager stated that the following bids were received:

Arden Equipment Company: \$12,177.90

Delivery was to be 30 - 60 days. A deposit of 5% of the amount before taxes was included.

Marion Equipment Company: \$12,966.45

Delivery was to be 3 days after receipt of purchase order. A deposit of 5% was included.

Public Works Director Glen Sherlin stated that he would like to note that the bid from Arden Equipment Company did not meet all of the specifications required. He stated that a specific guaranteed delivery must be specified and the bid stated 30 to 60 days due to freight shipping dates - the other bid had stated three days from receipt of purchase order and since work had already been scheduled, the earlier the equipment would come in the better. Mr. Sherlin stated that the bid deposit was required to be five percent of the net price, not the price before taxes. He stated that in summary, in his opinion, Arden Equipment Company did not meet the specifications.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to accept the bid of Marion Equipment Company in the amount of \$12,966.45 for a new farm tractor with box blade.

4. 3 - New Tractor Loader Backhoes: The City Manager stated that the following bids were received:

Arden Equipment Company: \$27,131.42

Delivery is to be 30 - 45 days. A deposit of 5% of the amount before taxes was included.

Marion Equipment Company: \$26,760.93

Delivery is to be three days after receipt of the purchase order. A deposit of 5% was included.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to accept the low bid of Marion Equipment in the amount of \$26,760.93 for three new tractor loader backhoes.

5. 1989 - 1990 Paving Program: The City Manager stated that the following bids were received:



Johnson Paving Company  
 New Surfacing/per ton: \$33.75  
 Resurfacing/per ton: 31.20  
 Curb/per lineal ft.: 2.00  
 Milling/per yd/per in.: 3.20 plus .25 each add. inch  
 Thompson Contractors:  
 New Surfacing/per ton: \$31.45  
 Resurfacing/per ton: 29.45  
 Curb/per lineal ft.: 3.00  
 Milling/per yd/per in: No Bid

APAC Carolina, Inc.:  
 Bid arrived at 10:09 A.M.

New Surfacing/per ton: \$34.75  
 Resurfacing/per ton: 34.75  
 Curb/per lineal ft: 3.50  
 Milling/per yd/per in: 1.75

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to accept the bid of Thompson Contractors in the amounts of: \$31.45 for new surfacing and \$29.45 for resurfacing with the understanding that the curb and milling would be contracted separately.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to allow the City Manager and Public Works Director to negotiate on the curb work and milling.

6. Fence - Water Filter Plant Property: The City Manager stated that the following bids had been received informally by Mr. Buck Byrd, Chief Operator, Water Filter Plant:

Marion Fence Company: \$18,851.42

American Fence Company: \$15,458.00

The City Manager stated that the figures included fencing the entire area. He stated that the areas could be broken down and fenced separately if Council wished to do it that way.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to accept the low bid of American Fence Company of \$15,458.00 to fence the entire area at the Filter Plant Property.

APPOINT ONE ALTERNATE MEMBER - PLANNING/ZONING BOARD -PREFERABLY FROM CLINCHFIELD AREA: The City Manager stated that an alternate member for the Planning/Zoning Board needed to be appointed preferably from the Clinchfield area.

Council requested that the Zoning Administrator contact Ms. Glennys Gilbert to see if she would be willing to serve.

COUNTY INSPECTION AND SIGN/BILLBOARD FEES: The City Manager stated that the County had placed this item on the agenda for the last meeting in August. He asked that the matter be tabled until the County had adopted new fees.

CHANGES - CITY STREET SYSTEM: The City Manager stated that several changes had been made to the City Street System as follows:

#### Additions to State Highway System:

1. South Logan Street between Court Street and Henderson Street (0.09 miles).

#### Deletions from State Highway System:

1. SR 1204 (Cross Street) between Carson Street and Gladden Street (0.09 miles).
2. SR 1202 (Webb Street) between Roane Street and Carson Street (0.10 miles).
3. SR 1201 (Roane Street) between Webb Street and Hoyle Street (0.16 miles).
4. SR 1201 (Hoyle Street) between Roane Street and Tate Street (0.22 miles).

These streets were added to the City Street System.

WATER SYSTEM IMPROVEMENTS - DISCUSSION: The City Manager stated that he had received information from Engineer, Gary McGill concerning the proposed water system improvements. He stated that Council needed to decide exactly what they wanted to do, set priorities and take the necessary steps required if they wished to have a bond referendum for the project.



The City Manager stated that the information for the Water Study was now available and that he would try to set up a meeting with the County Commissioners and the Engineers within the next few weeks.

**LIABILITY INSURANCE - PUBLIC OFFICIALS AND LAW ENFORCEMENT OFFICERS:** The City Manager stated that he met with Councilman Stronach and Marshall Dark of McDowell Insurance concerning quotes for the liability insurance for the public officials and law enforcement officers. He stated that Councilman Ayers, also on the Insurance Committee had been consulted on the matter. He stated that the Insurance Committee had recommended that the City continue coverage with the Hunt Agency for an occurrence policy with a coverage limit of \$1,000,000/\$3,000,000 with a deductible of \$5,000. The annual premium is \$17,867.00.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to accept the recommendations of the Insurance Committee.

**NO PARKING ZONE - HILLCREST DRIVE - STREET COMMITTEE REPORT:**

The City Manager stated that the Street Committee had met to discuss a request for a no parking zone on Hillcrest Drive. He stated that the Committee had decided that it would not be beneficial to have a no parking zone in the area requested.

**REQUEST - ROD BIRDSOING - CHAMBER OF COMMERCE:** The City Manager stated that he had received a request from Rod Birdsong to borrow the "low-boy" that belongs to the City for a stage for the Mountain Glory Festival. He asked if Council had any objections. There were no objections.

**REQUEST - COMMUNITY BANK AND TRUST AND MS. DORIS CRAWLEY:** The City Manager stated that Mayor Clark had received a letter from Ms. Doris Crawley on behalf of Community Bank and Trust to use the large photograph of the dome of the bank building on a permanent basis with the understanding that the photograph was the sole property of the City. He stated that he had given Ms. Crawley permission to use the photograph for the grand opening celebration of the bank.

Mayor Clark stated that he had talked with Ms. Crawley and that the bank would like to have the photograph with no strings attached. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow Community Bank and Trust to use the photograph until they could have a reproduction of the photograph made or until the City needed the photograph.

**GARBAGE CONTRACTS - COMPLAINTS - DISCUSSION:** The City Manager stated that one of the private haulers the City contracted with during the last annexation had reported that one of their customers had discontinued service with them after ten years and no complaints and had contracted with the other hauler.

The City Manager stated that when the hauler informed him of the change he stated he did not think that the City should have to pay for the service. The City Manager stated that he had told the hauler that in his opinion, that if there had been any complaints from a hauler that a customer had the right to discontinue service and contract with another hauler. He stated that in addition, if a hauler contacted a customer to undercut the competition, he felt that the City should not pay the new hauler for the garbage pick-up. Any business changing private haulers would have to pay the new hauler for service.

A discussion followed. The City Manager was directed to talk with the person who discontinued service with the original hauler and contracted with the competition to see what had really happened.

**PROPERTY ON SUMMIT STREET - QUESTION OF ZONING:** The City Manager stated that a person owning property on Summit Street had a frame house and two mobile homes on the same lot which was allowed as a non-conforming use by the zoning ordinance. He stated that one of the mobile homes had been removed and replaced in violation of the Zoning Ordinance. He stated that the person owning the mobile home had tried to get electricity turned on, but could not get a permit from the county until a certificate of occupancy from the City was issued. He stated that a certificate of occupancy could not be issued. The City Manager stated that a certificate could be issued if the property was subdivided to provide a separate lot for the mobile home or if the Zoning Ordinance were changed.

A short discussion followed. Council was in agreement that nothing could be done until the lot was subdivided.

**POLICE DEPARTMENT - REQUEST - SPACE NEEDS:** Sergeant Arthur O'Dear presented a request from the Police Chief concerning the space needs of the department. He stated that the Chief would like to use the outside room of the Council Chambers for his office, to use the hallway for setting up files and use the kitchen area of the chambers for an evidence room. A discussion followed.


Council was in agreement to allow the Police Chief to use the old Council Chambers



upstairs in the City Hall Building as his office, to use the kitchen in the new Chamber as an evidence room and to use a portion of the basement area to set up files.

**HATS - IDENTIFICATION FOR PUBLIC WORKS EMPLOYEES:** The City Manager stated that it had been requested that baseball type caps for the Public Works Employees be purchased so that it could be used as a means for identification. He stated that the hats would be checked out through the City Warehouse. He stated that employees would be allowed two hats per year and that if a new one was checked out, the old one was to be turned in to be destroyed. He stated that in addition, the hats must be turned in if the person left employment with the City. Council was in agreement to purchase the hats for Public Works employees.

**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

August 29, 1989

The City Council for the City of Marion met in Special Session on Tuesday night, August 29, 1989 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; LuAnn Ellis, Secretary; and Myrna Woody, Intern.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to review the first draft of the Codification of Ordinances.

The City Manager stated that he had two other items of business that needed to be taken care of since the next meeting would not be until September 19. (The first meeting in September was canceled due to some members of Council attending the annual meeting of National Association of Towns and Townships in Washington D.C.).

**RESOLUTION - DEPARTMENT OF TRANSPORTATION - BRIDGE INSPECTION:** Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

#### BRIDGE INSPECTION RESOLUTION

**WHEREAS,** the City of Marion has requested the Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consist of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Marion; and

**WHEREAS,** the City of Marion proposes to enter into an agreement with the North Carolina Department of Transportation for said work wherein the Department of Transportation or a Consulting Engineering firm retained by the Department of Transportation will reinspect and prepare the necessary reports for all public bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards; and

**WHEREAS,** under the proposed agreement the Federal Highway Administration shall reimburse the Department of Transportation for eighty (80) percent of the cost of the work subject to compliance with all applicable federal policy and procedural rules and regulations; and

**WHEREAS,** under the proposed agreement the City of Marion shall reimburse the Department of Transportation for all costs of the work incurred by the Department



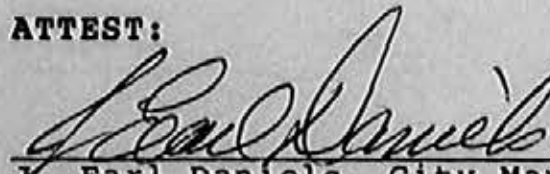
of Transportation not paid by the Federal Highway Administration.

NOW THEREFORE, BE IT RESOLVED that the agreement for the hereinabove referenced bridge inspection work is hereby formally approved by the City of Marion and the Mayor and Clerk (or Manager) of this Municipality are hereby empowered to sign and execute the required agreement between the City of Marion and the Department of Transportation.

ADOPTED this the 29th day of August, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**TAX/UTILITY DEPARTMENT - NEW POSITION:** The City Manager stated that with the problems the City had experienced with billing the taxes, he would like to request authorization to employ an additional utility clerk and make the tax collector a full-time position. The City Manager stated that he had talked with the ladies in the office and the personnel director and everyone agreed that the position needed to be created. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to authorize the City Manager to employ an additional utility clerk and to make the tax collector position full-time.

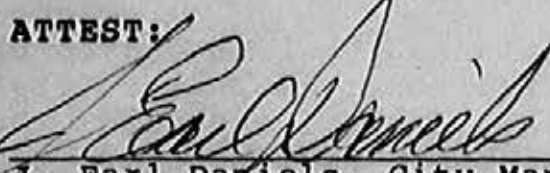
**CODIFICATION OF ORDINANCES:** The Sections of the Code were reviewed item by item and changes, additions and deletions were made as needed.

Council agreed to meet in Special Session on Wednesday night, August 30, 1989 at 7:00 P.M. to review the remaining sections of the Code.

**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/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

AUGUST 30, 1989

The City Council for the City of Marion met in Special Session on Tuesday night, August 30, 1989 at 7:00 P. M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; and Myrna Woody, Intern.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to review the Codification of Ordinances before the final draft.


The remaining sections of the Code were reviewed and changed, sections added or deleted as needed.

**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**

**September 18, 1989**

The City Council for the City of Marion met in Special Session on Monday, September 18, 1989 at 7:00 P.M. in the City Council Chamber. (The meeting was held on Monday instead of Tuesday due to the City Manager having to go out of town on Tuesday).

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Larry Ballard, Water Utilities Supervisor; Aaron Adams, Street Supervisor; Bill Gilsdorf, Chief of Police; Lee Lynch, Director Downtown Business Association; Lisa Swim, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Mr. David Tilson, Tilson Sanitation; Mr. Lee Brown, G.D.S.; Mr. Tom Winkler, G.D.S.; Mr. & Mrs. Roger McCarthy, 402 Rutherford Road; Mr. & Mrs. John McCarthy, Marion, N.C.; Ms. Dorothy Bagwell, Student Teacher, East McDowell Jr. High; Mr. Chandler Arnold, Student, East McDowell Jr. High.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the August 22, August 29, and August 30, 1989 meetings.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST BLOCK A PORTION OF MAIN STREET FOR HALLOWEEN PARADE:** Mrs. Lee Lynch, Director, Downtown Business Association appeared before Council and requested that Main Street from Court Street to Henderson Street be blocked to vehicular traffic from 3:30 P.M. to 4:30 P.M. on October 31, 1989 for a Halloween Parade.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to authorize the blocking of vehicular traffic on Main Street from Court Street to Henderson Street from 3:30 P.M. to 4:30 P.M. on Tuesday, October 31, 1989 for a Halloween Parade.

**MR. MARSHALL WALKER - REQUEST TO PURCHASE CITY PROPERTY -MACKEY'S CREEK:** The City Manager presented a request from Mr. Marshall Walker to Council. Mr. Walker's letter stated that he would like to purchase a portion of property belonging to the City of Marion that adjoined his property on Mackey's Creek. A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to table the matter until a time unknown.

**MR. ROGER MCCARTHY - COMPLAINT - BRANCH - RUTHERFORD ROAD:** Mr. Roger McCarthy of Rutherford Road appeared before Council concerning a flooding problem on his property. Mr. McCarthy stated that during the heavy rains on July 4, he had approximately four feet of water in the basement from flooding. Mr. McCarthy stated that he felt the problem was from the culvert at the entrance to the Tultex plant. He stated that debris came down the branch and blocked the opening and the water was unable to get through.

The City Manager stated that he had enclosed a copy of Mr. McCarthy's letter and the reply in the agenda packets. He stated that he had explained to Mr. McCarthy that the road leading into Tultex was a private road and the City had no authority with regard to maintaining the road or drains. A short discussion followed.

Councilman Ayers stated that the water was a serious problem and that when the bypass was completed, the situation would become worse. He stated that the area



should be filmed with the video recorder before a rain and then during a rain. Mr. McCarthy stated that he had snapshots of the damage during July 4th.

The City Manager stated that he would like to meet with Mr. McCarthy and personnel from D.O.T. to show them the pictures.

**GARBAGE CONTRACTS - COMPLAINTS:** The City Manager read the statutory requirements of the City during a period of annexation with regard to garbage pick-ups by a private hauler.

The City Manager stated that he would like to mention that the City did not furnish garbage containers for persons with pick-ups in the City and that the contracts entered into with Tilson Sanitation and G.D.S. were drafted according to current City policies.

The City Manager informed Council that upon reviewing the two contracts, he had noticed that one of the contracts prices were considerably higher. He stated that he was not sure if that amount included container rental. He stated that he had asked the hauler to provide an explanation of his charges and that the persons he serviced had not paid container rent until this time.

The City Manager stated that in his opinion, the City should set rates to pay each hauler and that the hauler could charge any excess expenses to the customers.

The City Manager informed Council that at least three persons had expressed a desire to change from one hauler to the other hauler, however, the original hauler had no record of any complaints from the persons. The City Manager stated that he had been in contact with an attorney from the League of Municipalities concerning this problem and had been advised that the City entered into the contract with firms A and B and that if a customer of firm A decided to switch to firm B, the City would not be obligated to pay for the service. The letter did state, however, that in the event of a complaint against a certain hauler, the City and the hauler should be informed and the City should try to solve the problem.

Mayor Clark asked each representative if they charged a container rental and who paid the rental. G.D.S. stated that for the purposes of this contract, the price for container rental which was normally included with the entire price had been broken down and that each customer was being billed for the rental. Tilson Sanitation stated that the customer was being billed at this time and that the charges to the City had been adjusted accordingly. Mayor Clark asked if Tilson Sanitation had been charging rent to his customers the entire length of the contract. Mr. Tilson stated that he had not.

Mr. Tilson stated that he would like to explain that the fluctuation in his rates were due to a carry over from another business.

A short discussion followed concerning container rental.

Mr. Lee Brown, President of G.D.S. stated that he would like to let Council know that he did not feel it was fair for the other contractor to solicit his customers and that if the City would like to increase his subsidy to be equal with Tilson Sanitation he would not mind.

Mr. Tilson stated that he had not solicited any business of the other firm that both companies had called him for service.

Councilman Little stated that the City had entered into the contracts in good faith and that the City was only interested in getting the best service. He stated that he felt that these mistakes had been cleared up and that there should be no problems.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to follow recommendations of the League of Municipalities in that if a customer decided to change contractors the City was not legally obligated to pay for the pick-up and in addition, if a problem occurred, to contact the City so that it could be worked out.

**REQUEST - G.D.S. - ADDITIONAL PICK-UP - DAIRY QUEEN:** The City Manager presented a letter of request from G.D.S. to Council that they be allowed to add two pick-ups per week to their contract for the Dairy Queen

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the addition of Dairy Queen to the contract of G.D.S. for two pick-ups per week.

**REQUEST - TILSON SANITATION - ADDITIONAL PICK-UP - STAGECOACH LTD:** The City Manager presented a letter of request from Tilson Sanitation to add two pick-ups per week to their contract for Stagecoach Ltd.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted



unanimously to approve the addition of Stagecoach Ltd. to the contract of Tilson Sanitation for two pick-ups per week.

REQUEST - TILSON SANITATION - TRANSFER OF PICK-UP - WESTERN SIZZLIN STEAK HOUSE: The City Manager presented a letter from Tilson Sanitation requesting that the garbage pick-up be transferred from G.D.S. to Tilson Sanitation for two pick-ups per week.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to reject the transfer of Western Sizzlin Steak House from G.D.S. to Tilson Sanitation.

REQUEST - TILSON SANITATION - ADDITION OF CAN/BARREL CHARGES TO SCHEDULE B: The City Manager stated that he had requested that Tilson Sanitation submit a charge for the can/barrel pick-ups. The charges were as follows:

Business with cans -	\$20.00 per month
Residents with cans -	7.50 per month

Both examples were for two times per week.

Councilman Little made a motion, seconded by Councilman Ayers to accept the addition of can/barrel charges as follows: Business with cans - \$20.00 per month; Residence with cans - \$7.50 per month.

The City Manager stated that he did not have a certain number of cans/barrels to be picked up and that he would like to know how the charges were arrived at before adding the schedule to the bill.

Councilman Little and Councilman Ayers both withdrew their motions until further information could be obtained.

COUNTY INSPECTION/SIGN FEES: The City Manager stated that for some time, the City had been trying to adopt an ordinance which would be in line with the County on inspection and sign fees. He presented the present County fees to Council. He stated that he had gone over the information with the City Building Inspector and that they could not understand the basis for the county.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following ordinance.

AN ORDINANCE ESTABLISHING FEES FOR BUILDING PERMITS, LOCATION PERMITS, ZONING PERMITS, SWIMMING POOL PERMITS, SIGN PERMITS, AND CERTIFICATES OF OCCUPANCY.

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

Section 1. Building Permits: Building permit fees for all buildings constructed inside the City Limits shall be based on the total number of square feet in the building at rates as follows:

New Buildings and additions to existing buildings:

Minimum Permit Fee	\$10.00
AREA	FEE
200 sq. ft. to 10,000 sq. ft.	\$.05 per sq. ft.
10,001 sq. ft. to 20,000 sq. ft.	\$.03 per sq. ft.
20,001 sq. ft. and over	\$.01 per sq. ft.

Section 2. Location Permits: Permit fees for location of mobile homes and/or other buildings shall be as follows:

Double Wide Mobile Homes	\$25.00
Single Wide Mobile Homes	\$15.00
Other buildings	\$25.00

Section 3. Zoning Permits: The Building Permit, Sign Permit, or Swimming Pool Permit shall serve as a Zoning Permit. Where a Building Permit, Sign Permit, or Swimming Pool Permit is not required, the Zoning Permit shall be \$15.00.

Section 4. Swimming Pool Permits: This section applies to swimming pools assembled or constructed on site. All pools, other than small children wading pools, must be fenced.

Standard Below Ground Pool	\$45.00
Standard Above Ground Pool	\$35.00

Section 5. Sign Permits: There shall be an inspection charge of \$10.00 for the construction, erection, or attachment to a building of any sign. Size and



location of signs shall be in accordance with City Ordinances.

In addition, there shall be an annual inspection fee of \$10.00 for all "off-premises" signs except governmental, religious and civic signs.

Such fee shall be due on July 1 of each year.

All signs located within the City of Marion shall be maintained in good condition and appearance by the owners of said signs. Upon written notice from the City Building Inspector, the owner of any sign in need of repair, shall see that such sign is repaired or removed within ten (10) days of such notice.

No Permit or fee will be required for non-illuminated "For Sale" or "For Rent" signs not exceeding Four (4) square feet in area.

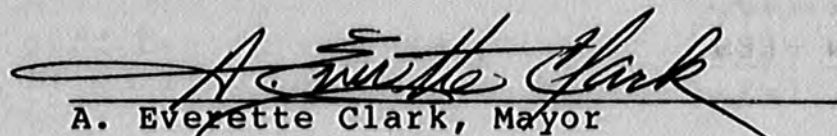
Section 6. Certificate of Occupancy: Certificate of Occupancy fees inside the City Limits shall be \$2.00.

Section 7. Plumbing, Electrical, Mechanical, and Insulation Permits: Plumbing, Electrical, Mechanical, and Insulation Permits shall be issued by the McDowell County Inspector. All persons, firms, or corporations undertaking any work inside the City Limits, requiring such permits, must first secure the necessary permits from the McDowell County Inspector.

Section 8. The ordinance entitled AN ORDINANCE ESTABLISHING FEES FOR BUILDING PERMITS, SIGN PERMITS, ZONING PERMITS, AND CERTIFICATES OF OCCUPANCY adopted by the City Council on June 7, 1983 is hereby rescinded.

Section 9. Effective Date: This ordinance shall be in full force and effect upon its adoption.

Adopted this the 18th day of September, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

O-89-9-18-1

**EMPLOYEE PICNIC - SATURDAY, SEPTEMBER 30, 1989 - 1:00 P.M. TO 7:00 P.M.:** The City Manager informed Council that the Employee Picnic had been planned for Saturday, September 30, 1989 from 1:00 P.M. to 7:00 P.M. He stated that Council would need to vote to have Councilman Ayers to provide the food, however, Councilman Ayers would need to abstain from the voting.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present excluding Councilman Ayers voted unanimously to authorize Councilman Ayers to provide the food for the Employee Picnic on Saturday, September 30, 1989 from 1:00 P.M. to 7:00 P.M.

**SUPPLEMENTAL RETIREMENT - BB&T:** The City Manager informed Council that the rate which the City had to pay into the local government retirement system had decreased and that since the police department had an additional retirement, he would like to recommend that the City contribute an equal amount to a retirement system for other employees of the City. He stated that the rate that the City had been contributing to the local government system had decreased due to the fact that when the City had joined the system, they were required to pay a higher rate to cover older employees nearing retirement.

The City Manager stated that with the proposed supplemental retirement, it would be a flat City contribution of 3.46 percent of the employees' salary. He stated that there would be no contribution from the employee unless the employee wished to contribute. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to accept the supplemental retirement plan for City employees other than the Police Department since they already had a plan in place.

**CHAMBER OF COMMERCE - REQUEST TO BLOCK MAIN STREET - MOUNTAIN GLORY FESTIVAL AND REQUEST CITY HELP HANG BANNER:** The City Manager presented a letter from the Chamber of Commerce requesting that the City block Main Street on Saturday, October 14, 1989 from Court to Henderson Streets from 6:00 A.M. to 7:00 P.M. for the Mountain Glory Festival.

The letter also requested that the City help the Chamber hang a banner over Main Street advertising for the event.



Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to give permission to block Main Street from Court to Henderson on Saturday, October 14, 1989 for the Mountain Glory Festival from the hours of 6:00 A.M. to 7:00 P.M. and to allow the City to help the Chamber of Commerce hang the banner across Main Street advertising the event.

**CHIEF GILSDORF AND LEE LYNCH - SIDEWALK PROPOSAL:** Mrs. Lee Lynch stated that on behalf of a large percentage of business owners in the downtown area, she would like to request that the City allow merchants to display merchandise on the sidewalks Friday and Saturday with the understanding that the merchandise could not be left outside overnight.

Chief Gilsdorf stated that he would like for a committee to look into the liabilities of the city, to possibly place a time limit on the sales and to request set-back limits for the merchandise to allow flow of pedestrians.

Mayor Clark requested that the matter be turned over to the Street Committee for further study and that a recommendation be brought back to Council at the next meeting.

**UNITED WAY CONTRIBUTIONS - 1989:** Chief Gilsdorf stated that he would like to have authorization to use payroll deduction for United Way contributions again this year. He stated that by allowing the contributions to be made by payroll deduction, the City's contribution increased by over four hundred percent.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to endorse the United Way Campaign and to authorize deductions by payroll deduction.

#### **REPORTS - POLICE DEPARTMENT:**

**1. POLICE AUCTION:** Chief Gilsdorf stated that he would like to conduct an auction to rid the department of unclaimed bicycles during the Mountain Glory Festival. He stated that advertisements would be in the newspaper and that the owner could claim the bicycle until the day before the auction.

**2. REQUEST - ESCORT FOR SENIOR GAMES:** Police Chief stated that he had received a request to provide an escort for the Senior Citizens going to the Senior Games. He stated that he would like to have the approval of Council. There were no objections.

**3. PRESS RELEASE - NARCOTICS UNDERCOVERED:** Chief Gilsdorf presented a press release to Council and members of the media present. He stated that he would like to thank Officer Squires and Officer Oliver for their recent work in the West Marion area. He stated that they had received a call reporting ladies selling cartons of cigarettes in West Marion and the caller believed they were stolen. He stated that the officers responded to a call and after a chase, uncovered "crack" and the accessories to manufacture it.

**4. DOOR INTO THE POLICE DEPARTMENT:** The Police Chief stated that he had encountered problems in placement of the door to bring persons for questioning, etc. into the department. A short discussion followed. The Police Committee was asked to look into the situation.

**EASEMENT - SEWER LINE - BALLEW MOTOR COMPANY:** The City Manager stated that an easement had to be obtained from Ballew Motor Company in order to run a sewer line to Westwood Chateau Condominiums. He stated that Mr. Ballew had requested that he be given two free sewer taps in exchange for the easement. Council had no problems with giving Mr. Ballew two taps without charging for the connections and without charging a system development charge.

**REQUEST - WATER TAP ON - P.G. AREA:** The City Manager stated that several years ago some residents in the P.G. area had private wells drilled and disconnected their residences from the City Water System. This was during a time when citizens receiving water from the City Water System had to boil water from the system prior to use. These persons were advised when they disconnected from the system that they could have service restored by paying the necessary deposit and any unpaid bills. At that time the only thing required by the City was to replace the water meter and turn the service back on. New water lines were installed several years later and now it will be necessary to make a completely new installation to provide water service. The City Manager advised Council that a person who had the water service changed wanted to go back on the City Water System and he needed instructions on how to charge the individual for the service connection. After a short discussion the City Council agreed that the connection would have to be treated like a new service and the individual would be required to pay the current water connection fee and the system development charge. Any persons disagreeing with this decision could appear before Council.

#### **REPORTS:**

**1. GRASS CLIPPINGS:** The City Manager stated that he had received complaints concerning grass clippings being placed loose along the curb line. The garbage



ordinance specifies that the clippings should be in bags. He stated that door hangers would be printed advising residents of the requirement.

**2. WATER LINES - STUMPTOWN:** The City Manager informed Council that 4,500 feet of water line had been placed in the Stumptown area and that the project was expected to be completed within a short time, weather permitting.

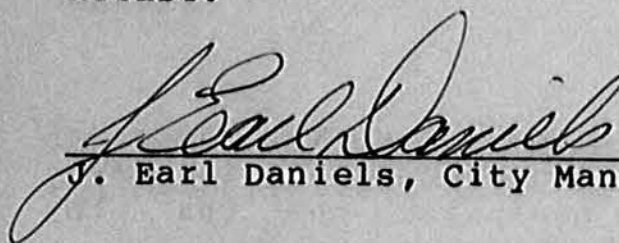
**3. EDDIE DUNCAN - PROBLEMS WITH SEWER LINE:** The City Manager stated that he had received a letter from Mr. Eddie Duncan concerning a sewer line on his property which had washed out. Mr. Duncan has complained that the line was damaged when the City installed a drain line on his neighbor's property. The Public Works Director stated that he felt that the water level had caused the problem since the line was suspended over the creek. Council agreed to allow City forces to repair the line this time.

**4. MAINFRAME COMPUTER - BIDS:** The City Manager informed Council that bids had been let for the mainframe computer system for City Hall. He stated that the bids would be handled as informal bids and would be opened on September 29, 1989.

**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 3, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, October 3, 1989 at 7:00 P.M. in the City Council Chamber.

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

**BOARD MEMBER ABSENT:** Councilman Robert Ayers.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Robert Parker, Personnel Director; Glen Sherlin, Public Works Director; Larry Ballard, Water Superintendent; Aaron Adams, Street Superintendent; Andre Huskins, Police Department; Arthur O'Dear, Police Department; Arthur Edwards, Fire Chief; Myrna Woody, Intern; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

**GUESTS PRESENT:** Mr. John Reese, U.S. Forest Service; Mr. Warren Hobbs, Chairman, Tree Board; Mrs. Lee Lynch, Executive Director, Downtown Business Association; Mr. Larry Hollifield, Mr. Marshall Grant, Mr. Luke McEllwain, Mr. Jeff Hunnicutt, Mr. Josh Childers, Mr. Michael Helton, Mr. Brian Hollifield, Mr. Greg Helton, Mr. Brenton Lewis, and Mr. Sonny Epley, all members of Boy Scout Troop 209.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to approve the minutes of the September 18, 1989 meeting.

**MR. JOHN REESE - PRESENTATION - TREE CITY USA AWARD:** Mr. John Reese, U.S. Forest Service presented the 1988 Tree City USA award to Mayor A. Everette Clark on behalf of the National Arbor Day Foundation. He stated that he was very proud of the work that the City had done and would like to recognize Mr. Warren Hobbs, Chairman of the Tree Board and express his appreciation to him for the work the Tree Board has accomplished.

Mayor Clark stated that he would like to thank Mr. Reese for the recognition on behalf of the City. He stated that he would also like to thank the Tree Board and express his appreciation for the work that they had done.



**MR. CARROLL HEMPHILL - BURNING OF OLD CROSS SCHOOL:** Mr. Carroll Hemphill, Director, McDowell County Emergency Management Agency stated that he would like to inform Council of the project to burn the old Cross School. He stated that the firemen participating in the project would have to attend a two night training session before the fire. He stated that the "set-up" of hoses, etc. would begin on Saturday, October 7, 1989 at 7:00 A.M. and the fire would begin at 8:00 A.M.

Mr. Hemphill stated that he did not foresee any problems with the project and every measure of safety and precautions would be taken.

**PROBLEMS WITH POST OFFICE - MR. BOB GADDY - HARVEST DRIVE IN:**

The City Manager informed Council that he had received a letter from Mr. Bob Gaddy of the Harvest Drive In on Hwy 70 W concerning problems with the post office. The City Manager read portions of the letter from Mr. Gaddy to Council. The letter stated that the post office delivered his mail as well as other businesses on the 5-Lane on the opposite side of the road which made the person getting the mail cross the five lanes of traffic to get to the mail box. The letter requested that Council write a letter on behalf of the businesses on the 5-Lane requesting that the Post Office deliver mail on both sides of the street.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to write a letter to the local postmaster with carbons to the other postal officials requesting that mail be delivered on both sides of the 5-Lane eliminating business owners from walking across five lanes of traffic to pick-up their mail.

**SERGEANT ANDRE HUSKINS - ACCIDENT REPORT:** Mayor Clark stated that he had asked Sergeant Andre Huskins of the Marion Police Department to brief Council on an accident involving a police vehicle.

Sergeant Huskins stated that on Saturday night, September 30, 1989, Sergeant O'Dear requested a back-up officer. Officer Mike Fox responded to the call. He stated that according to reports, Officer Fox was running emergency traffic (blue lights and siren). Officer Fox was traveling south on Main Street and at the intersection of Main and Court, he had a red light. Policy for the department when running emergency traffic is to stop at an intersection if the light is red and then proceed if it is safe to do so. Sergeant Huskins stated that according to witnesses, Officer Fox stopped and then proceeded. Shortly thereafter, he collided with another vehicle. Both parties were taken to the hospital and released. Sergeant Huskins stated that he was off duty at the time of the accident, but had to return to investigate the accident since the Highway Patrol refused to investigate stating that it was against policy to investigate accidents involving police vehicles.

**MAIN STREET - SALE ITEMS ON SIDEWALKS - PETITION:** The City Manager informed Council that he had talked with the Street Committee concerning the petition to place items on the sidewalk during regular business hours on Main Street. He stated that he had prepared an ordinance for consideration.

Mrs. Lee Lynch, Director, Downtown Business Association stated that on behalf of the merchants she would like to request that a sentence in Section 1, Item 4, reading as follows be deleted: "In addition, the statement shall state that the City of Marion shall be reimbursed by the merchant for any expense incurred by the City of Marion relating to the items placed on the sidewalk." Mrs. Lynch stated that if such an accident occurred, the merchant would not have insurance to cover both the loss and reimbursement to the City. She stated if such a statement were allowed to stay in the ordinance, merchants would not be able to place merchandise on the sidewalk due to the liability and would like to request that the ordinance be left as is, prohibiting sidewalk sales.

A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the proposed ordinance, deleting the sentence in Section 1, Item 4, which reads as follows: "In addition, the statement shall state that the City of Marion shall be reimbursed by the merchant for any expense incurred by the City of Marion relating to the items placed on the sidewalk."

**SIDEWALK DISPLAY OF MERCHANDISE AND STREET FESTIVALS**

**BE IT ORDAINED BY** the City Council of the City of Marion as follows:

Section 1. No person shall place for display or sale any goods, wares, or merchandise of any kind upon any of the sidewalks of the City, except in the Central Business District, as defined by the Zoning Ordinance for the City of Marion, and then only upon the following conditions:

1. Goods, wares or merchandise may only be placed directly in front of the businesses fronting on the street by the owners or occupants of said businesses.



2. All materials, tables, racks, or other items must be removed from the sidewalk at the close of business each day.

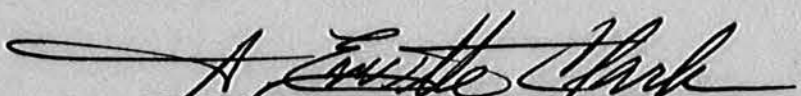
3. No goods, wares, merchandise, tables, racks, or other items may be placed within seven (7') feet of the face of the curb-line in front of the building.

4. Prior to placing any goods, wares, merchandise or any items on the sidewalk, the merchant owning or occupying the business shall provide the City Manager with a signed, notarized statement accepting total and complete responsibility for any accidents or other problems relating to the items placed on the sidewalk in front of his/her business. The statement shall include the beginning and ending date of the time covered by the statement.

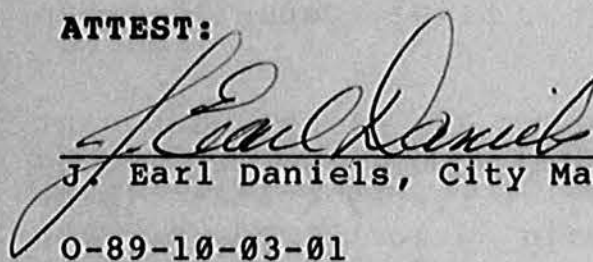
Section 2. This Ordinance shall not prohibit the City Council from authorizing sidewalk sales in the Central Business District nor Street Fairs and Festival which allow vendors and craftsmen to display wares in streets which are blocked off from vehicular traffic.

Section 3. Section 6-2002 of the Marion City Code, adopted September 7, 1982, is hereby rescinded.

ADOPTED this the 3rd day of October 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk  
0-89-10-03-01

**CONTRACT AGREEMENT - TILSON SANITATION - ADDITION OF CAN/BARREL CHARGES - SCHEDULE B:** The City Manager presented a copy of an amendment to the contract between the City of Marion and Tilson Sanitation relating to collection of cans and/or barrels. The amendment reads as follows:

It is hereby mutually agreed and understood that the contract by and between Tilson Sanitation and The City of Marion dated June 15, 1989, and attached hereto, Schedule B is amended as follows.

The City of Marion will pay Tilson Sanitation for the term of the contract the amount of \$7.50 per month for each residence approved by the City and receives service of two pick-ups per week by Tilson Sanitation.

In addition, the City of Marion will pay Tilson Sanitation the sum of \$20.00 per month for the term of the contract for service to approved commercial establishments not utilizing metal containers.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the amendment to Section B of the contract between Tilson Sanitation and the City of Marion concerning charges for can and/or barrel pick-up.

**COMPUTER MAINFRAME BIDS:** The City Manager stated that the City of Marion had received the following bids for a mainframe unit, five dumb terminals, and three printers for the City Hall Offices.

	ATT&T	NCR	LOGGIX
HSI Computers	\$ 23,064.00	\$ 17,964.00	
McDowell Computer	23,999.00		\$ 21,999.00

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to accept the bid of \$17,964.00 for the NCR mainframe computer unit, 5 dumb terminals and three printers.

**STEEL LIGHT POLES - MAIN STREET - ACCEPT RESPONSIBILITY:** The City Manager stated that he needed permission for the City to accept the responsibility of two steel light poles on Main Street in front of Nova Office Supplies and directly across the street from Nova. He stated that the poles would be used by persons hanging banners advertising local events for the City.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to accept the responsibility of two steel light poles on Main Street.



**REQUEST - ALLEYWAY TO BE OPENED - OFF OAK AVENUE - WEST MARION:** The City Manager presented a request from a resident to open an alleyway off of Oak Avenue in West Marion. The City Manager stated that the person had been walking through a lot in the area to get to his home, however, a mobile home had been placed in the alley and he could not walk through the lot to get to his home. The resident was requesting that he be allowed to gravel a small path in the alley.

There were no objections to allow the resident to place gravel in the alleyway.

**NEW CITY HALL BUILDING - PROPOSAL - WOOTEN COMPANY AND MR. JOHN BARNES:** The City Manager stated that he had received proposals from both the Wooten Company and J. W. Peeler (John Barnes - Financing Options) concerning the new City Hall Facility. A discussion followed.

Council was in agreement to invite representatives from the Wooten Company and Mr. John Barnes to a meeting of Council to be held Tuesday, October 24, 1989.

**RESOLUTION - ISOTHERMAL PLANNING & DEVELOPMENT COMMISSION:** 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 1989 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, \$1,043.62, to the Isothermal Planning and Development Commission at the earliest possible time in accordance with the provisions of Senate Bill 43, Section 42 of the 1989 Session Laws.

WITNESSED this the 3rd day of October, 1989.

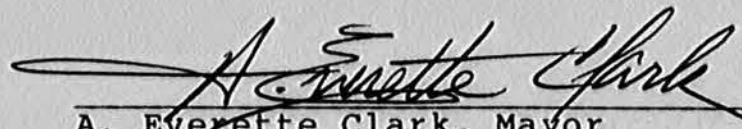
  
A. Everette Clark, Mayor

ATTEST:

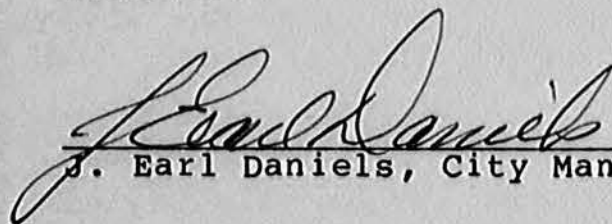
  
J. Earl Daniels, City Manager/Clerk

**ADJOURNMENT:** Upon a motion by Councilman Stronach, 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**

**October 17, 1989**

The City Council for the City of Marion met in Regular Session on Tuesday night, October 17, 1989 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Robin Hood, Chairman, Planning/Zoning Board; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. and Lydia Carrington, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. Gary Bridges, First Federal Savings & Loan; and Mrs. Virginia Cross.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the October 3, 1989 meeting.

**REQUEST FOR REZONING - FIRST FEDERAL SAVINGS & LOAN - NORTH MAIN STREET AT NEW STREET:** Mr. Robin Hood, Chairman of the Planning/Zoning Board stated that First Federal Savings and Loan had requested that property they own located at the intersection of North Main Street at New Street be rezoned from R-2 General Residential to C-1 Central Business to allow the construction of a new bank facility. Mr. Hood stated that the Planning/Zoning Board unanimously agreed to recommend the rezoning to Council.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to rezone the property owned by First Federal Savings & Loan located on Main Street at the intersection of New Street from R-2 General Residential to C-2 General Business.

**AMENDMENT TO ARTICLE VIII. USE REQUIREMENTS BY DISTRICT, SECTION 801. R-1 SINGLE FAMILY RESIDENTIAL DISTRICT:** Mr. Robin Hood, Chairman of the Planning/Zoning Board informed Council that Mr. Robert McKinney had purchased some property located within the City and had requested that the property be rezoned from R-1, Single Family Residential to R-2 General Residential to allow the construction of condominiums. Mr. Hood stated that Mr. McKinney's request could not be granted because it would be "spot-zoning" since the area was within a R-1 section. He stated that Mr. McKinney then requested that Article VIII, Use Requirements by District, Section 801. R-1 Single Family Residential District be amended to allow condominiums as a permitted use.

Mr. Hood stated that the Planning/Zoning Board had voted unanimously to recommend to Council that the article not be amended to allow condominiums in order to retain the intent of the zoning code.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to accept the recommendation of the Planning/Zoning Board.

**RESOLUTION - OPENING AND MAINTAINING A DEPOSIT ACCOUNT AND/OR CERTIFICATES OF DEPOSIT:** Upon a motion by Councilman , seconded by Councilman , Council voted unanimously to adopt a Resolution entitled Opening And Maintaining a Deposit Account and/or Certificates of Deposit. The Resolution is filed in the safe under document number R-89-10-17-1. (Legal Document #547)

**WATER/SEWER STUDY:** The City Manager stated that Mr. Gary McGill, engineer for the City had informed him that the water and sewer study had been completed and should



be here by the first of the week. The City Manager stated that Mr. McGill had called earlier today and advised that the printer had printed the maps wrong and they had to be reprinted.

**JENSEN ENGINEERING - REPORT - COMPLAINTS AGAINST WHEELER CONSTRUCTION:** The City Manager stated that he had received a letter from Mr. George Jensen regarding the complaints by various merchants against Wheeler Construction Company during the construction of the North Marion Waste Treatment Facility.

The letter recommended that the complainants be paid a settlement from the funds the City is retaining which will be paid to Wheeler upon completion of the project and settlement of claims.

The amounts recommended by Jensen to pay the claimants are as follows:

1. Darrell Ford Mercury - \$138.76 (the amount is one-fourth the amount requested - Jensen attributes the remaining three fourths to bypass construction, wind and normal traffic).
2. McDowell House - \$78.75 (the amount is one fourth the amount due - figured the same as Darrell Ford).
3. Magic Wand Car Wash - \$300.00 - (the amount is one half the amount requested - Jensen feels that access to the car wash was not blocked the entire time and that any further claims should be directed to the property owner who granted the easement).
4. Ballew Motor - No refund for the propane gas lost. Jensen's letter stated that his engineer on site who checked and noticed that the valves had been turned off and that there was no odor of gas when the line was bursted.
5. Miss Jacie's School of Dance - \$50.00. Jensen's letter stated that the on site engineer had noticed prior damage to the pavement and that \$50.00 should justify the claim.

The letter from Jensen Engineering stated that by paying these claims, the City should state that any further claims should be with the property owner and the claimant thereby releasing the City from any liability.

Mayor Clark asked what would happen if the claimant refused the settlement. The City Manager stated that he felt the claimant could take legal action against Wheeler Construction.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to accept the recommendations of Jensen Engineering to reimburse the amounts outlined above.

Councilman Little stated that he felt that a letter should be sent with each reimbursement check stating that upon acceptance of the check that the claimant realizes that the City has no further liability in the matter and any further claims should be against Wheeler Construction Company.

Council also agreed to send a copy of the letter from Jensen Engineering to each claimant which explains how the amount to be reimbursed was figured.

**PORNOGRAPHY AWARENESS WEEK:** Mayor Clark signed the following proclamation designating the week of October 29, 1989 through November 5, 1989 as Pornography Awareness Week. Council agreed that they would like to go on record as supporting this action.

#### P R O C L A M A T I O N

#### PORNOGRAPHY AWARENESS WEEK

**WHEREAS**, obscenity is not protected speech under the United States Constitution; and

**WHEREAS**, pornography does indeed inflict tremendous suffering and damage to individuals, families, children, marriages, business districts, communities, and our nation; and

**WHEREAS**, sexual assaults of children by other children imitating pornography are rising dramatically; and

**WHEREAS**, men, women, and children suffer degradation, torture, and even death to satisfy the deviant appetites of those addicted to pornography, which victimizes the users as well as those they abuse; and




WHEREAS, the U.S. Department of Justice has demonstrated a major commitment to enforce existing obscenity and child protection laws.

NOW THEREFORE, I, A. Everette Clark, Mayor of the City of Marion, do hereby proclaim October 29 - November 5, 1989 as:

**PORNOGRAPHY AWARENESS WEEK**

October 17, 1989


  
A. Everette Clark, Mayor

**REPORTS:**

1. LUNCHEON - TULTEX CORPORATION: Mayor Clark stated that he would like to remind Council of the luncheon at Tultex on Thursday, October 19, 1989 at 12:00 P.M.

2. NORTH CAROLINA LEAGUE OF MUNICIPALITIES - HONORING REPRESENTATIVE BOB HUNTER: Mayor Clark stated that the League of Municipalities would like to honor Representative Bob Hunter during a City Council meeting.

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 24, 1989

The City Council for the City of Marion met in Special Session on Tuesday night, October 24, 1989 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; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Arthur Edwards, Fire Chief; Tom Milligan, Assistant Fire Chief; Charlie Presnell, Fireman; Van McKinney, News Reporter, W.B.R.M.; and Eric Milsaps, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. James E. Neal, Marion Fire Department; Mr. Willard Thomas, Marion Fire Department; William J. Young, Jr, Marion Fire Department; James D. Willis, Marion Fire Department; Frederick C. Nanney, Marion Fire Department; Marvin E. Hall, Marion Fire Department; Millard Hollifield, Marion Fire Department; William R. Smith, Marion Fire Department; J.J. Laughridge, Marion Fire Department; John Barnes, J.Lee Peeler Company, Durham, North Carolina; Richard Chandler, The Wooten Company, Raleigh, North Carolina; Buck Kennedy, The Wooten Company, Raleigh, North Carolina; and Hashad Padia, The Wooten Company, Raleigh, North Carolina.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to discuss the proposed new City Hall facility and possible financing for the project. He stated that they would be discussing the priorities, needs and costs for the building as well.

Mr. Richard Chandler of the Wooten Company informed Council that at this time, a Space Needs Study for the new building had been completed. He stated that representatives from the company had talked to the various department heads and employees concerning the needs for their respective departments. He stated that from this information, a bubble drawing of the areas had been completed with like



areas together. He stated that this was the first stage of preparing for a building.

Mr. Chandler stated that the next phase of the project would be a schematic plan of the building. He stated that this would involve modifying the "bubble drawings" to actual needs of the departments and offices.

Mr. Chandler stated that representatives from his company felt that cost wise, it would be more efficient to build a new building rather than to renovate the old building. He stated that the present building was a wooden structure and was not built to be efficient in the areas of heating and cooling. He stated that due to the age of the building, they felt that there was quite a bit of asbestos which would have to be removed from the building. He stated that a complete new plumbing system as well as an electrical system would have to be installed.

Councilman Little asked if the present building could be used or would it have to be torn down. Mr. Chandler stated that the building could possibly be used, but it would be more efficient to not use the building.

Mr. Buck Kennedy from the Wooten Company stated that at this stage, enough planning had not been done to make a recommendation concerning the present building. He stated that the City did own the property and he would not recommend disposing of the property.

Councilman Tyler asked if the building could be built in stages beginning with the fire department since they had an immediate need for storing the new truck. Mr. Chandler stated that the fire department phase of the building would be the cheapest part of the building due to the type of building they would need. He stated that he did not feel that it would be practical to build around this structure if it were completed first.

Councilman Stronach asked if the proposed area for the fire department would be adequate. Jim Neal stated that he felt that the space proposed for the fire department would be adequate for as long as fifty years. He stated that future annexations would require the City to contract with a volunteer fire department and maybe even incorporate satellite stations in the years to come, however the proposed space would be more than adequate for the central office.

Mayor Clark asked if the representatives knew an approximate cost for the renovation verses the new building. Mr. Chandler stated that the cost to renovate would be approximately two-thirds to three-fourths of the cost to build a complete new building. He stated that for the new building, it would be from \$70 to \$80 per square feet.

J.J. Laughridge stated that he felt that the costs the gentlemen were quoting were practical. He stated that with the asbestos present, it would add approximately fifteen to twenty-five dollars per square foot for renovation. Mr. Chandler stated that office spaces would have to be rented for City operations during renovations.

Councilman Little stated that he would like to have a new building which would be attractive but practicable as well. He stated that he was very reluctant to have new offices for some and renovated offices for the other department(s).

Councilman Little asked if it would be practical to leave Brown Drive open while the construction is going on. Mr. Chandler stated that it could possibly be left open during construction, but after the completion of the building, he stated that it would possibly be L-shaped exiting onto Court street.

Mr. Kennedy stated that as for parking, a parking deck facility could be constructed behind the present building with approximately fifty cars per level. He stated that the facility could be built to allow for future expansion.

Councilman Ayers stated that the firemen present were also citizens of the City and he would like to hear their opinion of the building from a citizen point of view.

Jim Neal stated that he felt that the City should build the complete new building. He stated that an opportunity had presented itself and that he felt that the City should take the chance.

J.J. Laughridge stated that being a contractor, he did not feel that the site was large enough. He stated that a fifty year plan could not house three separate operations. He stated that the building needed to be big and with plenty of parking.

Councilman Tyler stated that he was a Senior Citizen and that a majority of the citizens in the City were senior citizens and could not afford higher taxes.

Mr. Buck Kennedy stated that Mr. John Barnes was present from the J. Lee Peeler Company to discuss possible financing rather than increasing taxes.



Mr. John Barnes stated that the J. Lee Peeler Company was a municipal bond dealer as well as a full service banker. He stated that the primary function of the company was municipal bonds.

Mr. Barnes stated that the first decision was what to build and how quick to build. He stated that the City had three options on financing:

1. General Obligation Bonds - would require a voter referendum and would take approximately thirty to sixty days. The City would have to estimate the amount of money needed for the project before going to the bond market.

2. Installment Plan - This method would not require a voter referendum and would be at a comparable interest rate to the general obligation bonds. The recommended time for payback would not exceed twenty-five years.

3. Lease Purchase - This method would not require a voter referendum and would be most similar to the installment plan.

Mr. Barnes stated that his recommendation would be to take the installment plan for financing the building. He stated that the money could not be borrowed until the bids are received so that the City would know how much money to borrow.

Councilman Little asked if the land would be held for security if the City decided to proceed with the installment plan. Mr. Barnes told him that the land would be held for security to allow for a lower interest rate.

Councilman Stronach asked the difference between the interest rates for general obligation bonds or installment plans. Mr. Barnes stated that with the credit history of the City, he felt very sure that there would be no problems with obtaining a loan on the installment basis with an interest rate with little difference from the bonds.

Councilman Little asked which process would take longer - bonds or a loan. He was informed that both would take about the same time.

Councilman Little asked how long construction of the new facility would take. He was informed that it would take approximately twelve to fifteen months.

J.J. Laughridge stated that if the project were bid in phases that the contractor would allow an additional ten percent or more to allow for set-ups between the phases.

The City Manager asked if the City would be close to arbitrage laws with the money. Arbitrage is borrowing money and investing the money for a profit rather than using it for some type of project. Mr. Barnes stated that the amount of money to be borrowed would be under five million and would not be subject to arbitrage laws.

Councilman Little asked how long the schematic process would take. Mr. Chandler stated that this portion of the study was critical and that the finalized plans would begin to be developed. He stated that it would include line drawings, corridors, windows, and finishes. He stated that at the most, the project would take approximately three months.

Councilman Ayers asked about the cost. He was informed that it would be approximately \$23,000.00.

Councilman Little asked if J.J. Laughridge had talked with the contractors concerning the site. J.J. Laughridge stated that he had talked with the Wooten Company representatives and he was confident that the representatives could make the site work for the City.

Mr. Buck Kennedy stated that it was very hard to plan a building to last for fifty years, however, he would like to emphasize the point that once the building was built, modifications could be made to the building.

Mr. Stronach asked if the representatives had looked at the an alternate site in the parking lot on Henderson Street for a fire facility only. Mr. Chandler stated that they had briefly looked at the site, but no discussions had followed.

Councilman Ayers asked how much the parking facility would cost. He was informed that the cost would be around \$5,000 per vehicle space.

J. J. Laughridge stated that he felt that when the project were bid, it would be a good idea to bid the parking facility as an alternate, eliminating the need to do this at a later date.

Mayor Clark stated that he felt that the City Council had a lot of decisions to make and that he felt that they should come back at the next meeting. He stated that he felt that the City should build economical rather than several buildings.



Mr. Patia stated that he was a mechanical engineer and that a new building would be built more efficiently and cut the operating costs as much as fifty percent.

Mayor Clark thanked the representatives from the two companies and the firemen for coming to the meeting and stated that the City would be in touch with them in the future when a decision had been made.

The City Manager stated that he had estimated the payments to be approximately \$200,000.00 per year. He stated that with the current revenue, he felt that the City could pay one half that amount.

Councilman Stronach stated that he was not afraid of borrowing the money, but of paying back the money. He stated that he felt that the Council should talk with Gary McGill concerning the proposed water projects before a decision was made on the building.

Councilman Cross stated that he was not looking at the decision as an either/or decision - either water or a building, but as a decision on priority.

The City Manager stated that he felt that the water problems could be handled within the City departments and that he felt that the needs and a time frame for those needs should be set.

Councilman Little stated that he was not willing to put in water lines to serve the entire county at this time. He stated that he felt that the lines in the City needed to be enlarged, but the county could wait.

Mayor Clark stated that he felt that the water problems could be handled with City personnel and that the expansion into the county would be nice if there was money available.


The City Manager stated that in his opinion, the raw water lake would be desirable, it would help with not having to pump water and treatment. He stated that the immediate problems in the City had been taken care of and that the others were being taken care of. He stated that the only things the City could not do was to put in the very large lines, build the raw water lake or an additional reservoir.

Councilman Ayers stated that he felt that there were no major needs at this point and he was not in favor of putting lines in to serve the County if they were not going to help with the cost.

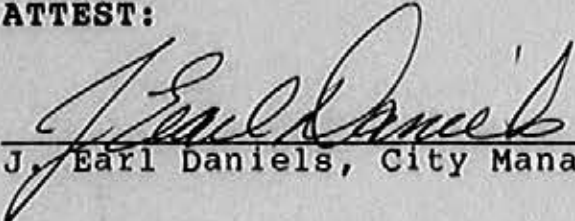
Councilman Cross stated that he felt that the City should work with the County on a joint plan and time table to accomplish the long range plans.

Council agreed to set up a meeting with Gary McGill to discuss the water system problems on Monday, October 30, 1989 at 7:00 P.M.

**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

October 30, 1989

The City Council for the City of Marion met in Special Session on Monday, October 30, 1989 at 7:00 P.M. in the City Council Chamber.



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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Glen Sherlin, Public Works Director; Larry Ballard, Water Superintendent; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.


**GUESTS PRESENT:** Mr. Gary McGill, McGill Associates, P.A.

Mayor A. Everette Clark called the meeting to order and stated that the purpose of the meeting was to review the Water and Sewer Study prepared by McGill Associates for McDowell County, The City of Marion and The Town of Old Fort.

Mr. Gary McGill appeared before Council and presented a copy of the Water and Sewer Study entitled "Comprehensive Water and Sewer Study, McDowell County, City of Marion, Town of Old Fort" to them.

Mr. McGill went through the report as it related to the City of Marion and responded to questions.

**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**

**November 14, 1989**

The City Council for the City of Marion met in Special Session on Tuesday night, November 14, 1989 at 7:00 P.M. in the City Council Chamber.

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

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

**GUESTS PRESENT:** Mr. & Mrs. Paul Lingerfelt, Mothers Against Drunk Driving; Representative Robert C. Hunter; Mrs. Nancy Clark; and Mr. David Reynolds, North Carolina League of Municipalities.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the October 17, 1989 meeting.

**MRS. VIRGINIA LINGERFELT - REQUEST - MOTHERS AGAINST DRUNK DRIVING:** Mrs. Virginia Lingerfelt appeared before Council and presented each board member with a pin for the Governmental Leaders Against Drunk Driving.

Mrs. Lingerfelt stated that she would like to have permission for the City to tie red ribbons on city vehicles during the weeks of November 16 to January 1 to make people aware of drinking and driving. She stated that she would also like to have the endorsement of Council for the "Designated Driver" Policy during the upcoming holiday season.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow red ribbons to be placed on city vehicles during the weeks of November 16 through January 1 to make people aware of drinking and driving and to endorse the "Designated Driver" Policy during the upcoming holiday season.

**NORTH CAROLINA LEAGUE OF MUNICIPALITIES - PRESENTATION TO REPRESENTATIVE ROBERT C. HUNTER:** Mr. David Reynolds, Executive Director of the North Carolina League of Municipalities stated that he would like to present an award to Representative Robert C. Hunter on behalf of the League for the work he had done for the cities



across the state especially during the last two sessions of the General Assembly.

Mr. Reynolds stated that the award to Representative Hunter was to be presented at the Annual Meeting of the League, however, Mr. Hunter could not attend due to a meeting of the Southern Legislative Conference. He stated that this organization is comprised of fifteen states and that Representative Hunter had been named Chairman-Elect of this important committee and he would like to offer his congratulations for the appointment.

Mayor Clark stated that on behalf of the City of Marion, he would like to offer his appreciation to Representative Hunter for the work he does for the City. He stated that if the City had a problem of any kind, Mr. Hunter was always there to help in any way that he could.

Representative Hunter stated that he would like to thank the League of Municipalities and the City for the nice comments they had to make concerning his work in the General Assembly. He stated that the major bill of the General Assembly, The Highway Trust Fund passed this session only because of the support of municipalities across the state. He stated that he appreciated the support of the City and the fact that they pointed out problems so that he was able to help.

**COMMENTS - COUNCILMAN AYERS:** Councilman Ayers stated that there had been a very bad wreck at the corner of Montevista Avenue and Hwy 70 W this past weekend. He asked if the possibility of cutting back the bank which blocked the view had been looked into any further since the right-of-way belonged to DOT. He was informed that the matter had not been discussed further. Councilman Ayers stated that he would like for the City to look into the matter before someone was killed in that area.

**COMMENTS - COUNCILMAN LITTLE:** Councilman Little stated that he had received several complaints of vehicles parking on sidewalks in the downtown area. He stated that he had noticed a car on the sidewalk on State Street near the McDowell Technical College Downtown Center but the worst area was on East Court Street near Davis Automotive.

Chief Gilsdorf stated that he was aware of the problems and that a number of tickets had been written. A short discussion followed.

Council was in agreement to place No Parking signs in front of Davis Automotive.

**DISCUSSION - SIDEWALK - WEST MARION AREA:** The City Manager stated that he had received a request to install a sidewalk on Sugar Hill Road from McDonalds to High Street in areas where sidewalks do not exist. He stated that the project could not be completed this year, but that a portion of the work could be done.

Mayor Clark stated that if the area was to be four-laned in the near future, before a sidewalk was put in, this needed to be considered.

Councilman Ayers asked if the property owners could be assessed for a portion of the cost. The City Manager stated that the City Charter allowed the City to assess the property owners if they wished to do so.

Mayor Clark stated that he would like for the City to request that DOT put in the sidewalk since Sugar Hill Road is a State maintained highway. Council was in agreement.

**COMMENTS - COUNCILMAN TYLER:** Councilman Tyler stated that he had received a request the portion of street known as Lail Street off West Henderson Street be named Holly Hill Drive for the entire length of the street.

The City Manager stated that if Council wished to change the name of the street it would be an ideal time since the property was vacant except for one building.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to change the portion of street known as Lail Street and located between West Henderson Street (Sugar Hill Road) and Holly Hill Drive to Holly Hill Drive.

**NO PARKING ORDINANCE - BALDWIN AVENUE:** Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council 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. Baldwin Avenue - East-side, between Rutherford Road and Circle Street.
- B. Baldwin Avenue - East-side, between Fourth street and Morehead Road.
- C. Baldwin Avenue - West-side, between Morehead Road and Rutherford Road.

Section 2. When signs are erected or curbs are painted yellow giving notice thereof, no person shall park a vehicle within fifty feet (50') of any intersection on the east side of Baldwin Avenue, between Circle Street and Fourth Street.

Section 3. 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 4. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 14th day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Clerk

Ordinance Number 0-89-11-14-01

**LONGEVITY CHECKS - DISCUSSION:** The City Manager stated that he would like permission to distribute the longevity checks. He stated that the formula for the checks was as follows: one days pay for each year of continuous service up to five years and then one dollar per month of continuous service past five years.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to allow the City Manager to distribute the longevity checks using the formula outlined above.

The City Manager stated that he would like to know if Council wished to give turkeys to the employees for Christmas. He stated that the Purchasing Agent could get the turkeys at a better price now than at Christmas and would have them stored until Christmas.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to give turkeys to City employees for Christmas.

**ABSTRACT OF CANVASSING:** The City Manager presented the following Abstract of Canvassing to Council. The original document is filed in the safe with other legal documents for the City.

#### ABSTRACT OF CANVASSING

We, the undersigned members of the Municipal Board of Elections, do hereby certify that we met in the City Hall on November 9, 1989, and did canvass the original returns of the Registrars and Judges of election of the votes cast for Mayor and members of the City Council, of the city of Marion at the regular municipal election held on November 7, 1989, and that the following is a true and correct tabulation thereof:

CANDIDATES FOR MAYOR:	TOTAL
A. Everette Clark	338
Jim Segars	3
Charles Burgin	1
Sparkie Parker	1

#### CANDIDATES FOR CITY COUNCIL

Stephen R. (Steve) Little	306
T. Roger Smith	161
Angus V. Stronach	333
Joe M. Tyler	347

We, therefore, certify that pursuant to such tabulation, we have determined that:

A. Everette Clark having received 338 votes for Mayor, and  
Joe M. Tyler having received 347 votes,



Angus V. Stronach having received 333 votes, Stephen R. Little having received 306 votes for City Council; have been duly elected Mayor and member of the City Council of the City of Marion, pursuant to law, for a term of four years.

**ABSENTEE VOTING - QUESTION:** Councilman Cross stated that he had asked to vote absentee because he was out of town on the day of elections and was informed that he could not vote absentee. He asked if it could be changed so that persons would be allowed to vote absentee during a municipal election.

**REPORTS:**

1. **JENSEN ENGINEERING - REQUEST TO PAY:** The City Manager stated that he had received a request for payment from Jensen Engineering for services on the Catawba Waste Treatment Facility. He stated that when the accounts had been reviewed, it was noted that the City had agreed to pay 11.17 percent of the total project for engineering and inspection fees. The City Manager stated that he had asked Mr. Jensen to be at the next meeting of Council to justify the amounts he has requested. A short discussion followed.

2. **CONSTRUCTION WORK - DOWNTOWN AREA:** The City Manager stated that he had asked the crews working on the sidewalks and streets downtown to stop work so that they would not interfere with Christmas Shopping. He stated that it would be sometime in the spring before work could begin again.

3. **NEW CHRISTMAS DECORATIONS:** The City Manager stated that the new Christmas Decorations would not be here until the first of December, however, the trees would be lighted at Thanksgiving and that the old Christmas decorations would be placed in other areas of the downtown.

**EXECUTIVE SESSION - POSSIBLE PROPERTY ACQUISITION:** Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to go into Executive Session.

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

**ADJOURNMENT:** Upon a motion by Councilman Stronach, seconded by Councilman Little, 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

November 21, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, November 21, 1989 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Bill Gilsdorf, Chief of Police; Aaron Adams, Street Superintendent; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Ms. Mary M. Smith, 107 Catawba Street; Ms. Connie Williams, 102 West High Street; Ms. Mary L. Logan, 505 Veterans Drive; Rev. Thomas E. Logan, 505 Veterans Drive; Mr. Ralph Rutherford, Yancey Street; Ms. Ida Sue Conley, Yancey Street; Ms. Oree Good, Old West Henderson Street; Ms. Tillie Twitty, Hudgins Street; Mr. Fred Williams, Duke Power Company; and Mr. George Jensen, Jensen Engineering.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Ayers, seconded by Councilman



Little, Council voted unanimously to approve the minutes of the October 30, 1989 and November 14, 1989 meetings.

**CONCERNED CITIZENS - REQUEST:** Ms. Tillie Twitty appeared before Council on behalf of the Concerned Citizens in the West Marion area. She stated that on Sunday, November 26, 1989, the Concerned Citizens were meeting at 1:00 P.M. in front of the Masonic Lodge on Hudgins Street concerning their request for a bridge on West Henderson Street. Ms. Twitty stated that she would like to invite Council to the meeting.

Ms. Twitty stated that the area in West Marion had been devastated by the construction of the Marion By-Pass. She stated that areas had been closed off and isolated their community.

Ms. Ida Sue Conley stated that her home had recently burned, and that the fire truck had come in the wrong street and had to go back around to get to her home. She stated that by the time the fire truck arrived, her home was lost.

Mayor Clark stated that as the group knew, the City Council had requested a bridge for the area. He stated that the Council was behind the group, but the matter was out of their hands. Mayor Clark asked Ms. Twitty if she had contacted officials from D.O.T. or had invited Representative Hunter to the meeting. She stated that she had sent a letter to Representative Hunter and was in the process of contacting the local D.O.T. Board Member.

Mr. Ralph Rutherford stated that the traffic in the area was bad now, but that once the By-Pass was completed, the traffic would be even worse. He stated that he felt the request was not selfish, that it would benefit everyone.

Mayor Clark thanked the Concerned Citizens for appearing at the meeting.

**MS. IRENE HOLTZCLAW - REQUEST TO REIMBURSE EXPENSES - BURNED OUR ELEMENT - HOT WATER TANK - DURING INSTALLATION OF WATER LINES - STUMPTOWN:** The City Manager presented a letter to Council from Ms. Irene Holtzclaw requesting that she be reimbursed \$50.00 for damages to her hot water tank during the installation of water lines in the Stumptown area. The letter stated that the backflow preventer installed by the City had malfunctioned and caused an element in her hot water tank to burn out.

Councilman Ayers stated that it was the recommendation of the Utility Committee to reimburse Ms. Holtzclaw \$50.00 for the heating element in her hot water heater due to a faulty back-flow preventer.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to reimburse Ms. Irene Holtzclaw \$50.00 for problems caused by a faulty back-flow preventer.

**MS. SONYA RUSSELL - REQUEST TO REIMBURSE MEDICAL EXPENSES AND LOST PAY - FALL IN FRONT OF CITY HALL:** The City Manager presented a letter and copies of medical bills from Ms. Sonya Russell to Council. The letter stated that Ms. Russell fell in front of the City Hall building and damaged blood vessels in her knee and had fluid on her knee causing her to miss one week at work. The letter requested reimbursement in the amount of \$86.00 for medical bills and \$349.20 for the week of work missed.

The City Manager stated that he would like to inform Council that the fall occurred on the 20th day of the month and that a lot of persons were in and out of the building because that is the last day of the month the bills can be paid without service being disconnected. He stated that there were no reports of other falls or of anything slippery on the sidewalk. A discussion followed.

Councilman Little stated that the City would be legally obligated to pay the claim if they were negligent. He stated that he could not see that the City had been negligent in any way, that there was no way a spill could be controlled if indeed there was a spill.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to deny the claim of Ms. Sonya Russell in the amount of \$86.00 for medical bills and \$349.20 for the week of work missed.

**MS. CARLA LETTERMAN - REQUEST TO REIMBURSE MEDICAL EXPENSES - FALL ON STATE STREET:** The City Manager stated that he had received a statement from the McDowell Hospital in the amount of \$243.70 for medical treatment for Ms. Carla Letterman. He stated that a police officer had observed the fall which was around an area where a water meter had been installed on State Street. Upon investigation, he learned that Ms. Letterman was blind and her companion was partially blind.

Councilman Little stated that it was his first reaction to pay the bill, however, he did not know if the City was legally obligated if there was no negligence.

Police Chief Gilsdorf stated that he had directed medical treatment. He stated



that Ms. Letterman had originally refused treatment because she did not have medical insurance.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to pay the medical claim in the amount of \$243.70 directly to McDowell Hospital for Ms. Carla Letterman with a copy of the check and letter to Ms. Letterman.

**JENSEN ENGINEERING - REQUEST FOR FINAL PAYMENT:** Mr. George Jensen of Jensen Engineering appeared before Council concerning a request for final payment on the North Marion Waste Water Treatment Facility.

The City Manager presented a financial statement to each member of Council showing the total expenditures of the project. The City Manager stated that the contract allowed a certain percentage of the total cost of the project to be paid to the engineer with any additional work to be billed separately. At this time, however, the amount paid to the engineer exceeded the percentage without adding the final invoice.

Mr. George Jensen stated that he would like to explain the charges on the final invoice. He stated that the final invoice included charges for the contract running over the completion date and for the relocation of several lines and the survey and other fees incurred with the relocations.

Mr. Jensen stated that he had agreed to bill any expenses not included in the contract separately, however, he had not done so because he did not expect the total cost to run over the percentage amount. He stated that if the costs for the work not included in the contract were deducted from the total amount paid to him, the percentage amount allowed for inspection and engineering fees would be less than the amount allowed.

Mr. Jensen stated that the payment would be the final payment and that the contract did allow for the engineer taking care of any problems with no charge except for mileage reimbursement. After a long discussion concerning the amount billed, overage charges and the amount to be billed based on the contract, Mr. Jensen agreed to accept a final payment in the amount of \$14,947.78.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to pay Jensen Engineering a final payment of \$14,947.78.

**RESOLUTION - PROPERTY EXCHANGE - MT. MORRIAH BAPTIST CHURCH:**

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

**RESOLUTION OF  
THE  
MARION CITY COUNCIL**

At a regular meeting of the Marion City Council on November 21, 1989, members discussed exchanging with Mt. Morriah Church, parcels of real property of similar values. The City proposes to give to the church part of the unopened portion of Pennsylvania Avenue adjacent to the Church. In exchange, the Church proposes to give to the City Lot 4B at the corner of Wilhemenia Street and unopened Pennsylvania Avenue. The existing roadway in use by the public runs through Lot 4-B, and it would be the intent of the City to gravel and pave this existing roadway in order to better serve the public.

In furtherance of the proposal and in accordance with North Carolina General Statutes 160A-271, and on motion by Councilman Stronach, seconded by Councilman Ayers, the following resolution was unanimously adopted:

**RESOLVED:** That the City exchange a parcel of real estate it owns attached and described as parcel A (valued at \$1,500.00) with the parcel owned by Mt. Morriah Church attached and described as parcel B (valued at \$1,500.00). Both parcels are of equal value, and the City is receiving full and fair consideration in the exchange of property. As required by Law, this resolution shall be published in the McDowell News once a week for two weeks announcing the City Council's intent to authorize the exchange of properties with the Mt. Morriah Church at its next regular meeting to be held on January 2, 1990.

This the 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:



  
J. Earl Daniels, City Manager/Clerk

R-89-11-21-01

**COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that he had noticed the wrecker from Davis Automotive was still parking on the sidewalk. He asked if the No Parking Signs had been placed in that area yet.

The City Manager stated that the crews went to place the signs but that the sidewalk was torn up due to work in the area and the signs could not be placed. A short discussion followed.

Council agreed to ask the Chief of Police to remove Davis Automotive off of the "wrecker rotation" list until he complies with the rules and regulations concerning parking on the sidewalk and to have officers ticket Mr. Davis each time the wrecker is seen parked on the sidewalk.

**COUNCILMAN AYERS - COMMENTS:** Councilman Ayers asked if the Mayor and City Manager had talked with Mr. Earl McEntire of the Department of Transportation concerning the area at the corner of Montevista Avenue and Hwy 70 and the sidewalk in the West Marion Community. He was informed that they had talked with Mr. McEntire and he was to talk with the local office concerning the problems. At this time, no response had been received from the local office.

**LIGHTING ON FIVE LANE AREA:** The City Manager stated that a question had arisen concerning the street lighting on the Five Lane area. He stated that representatives from Duke Power had recommended that the lights be staggered on each side of the highway so that light would be more evenly distributed. He stated that he would like to suggest that the lights be hung from cables in the center of the street.

A discussion followed. Council agreed that they were satisfied with the present lighting.

**BRADLEY LUMBER COMPANY - PETITION FOR ANNEXATION:** The City Manager presented a petition for Annexation to the City Council from Mr. Pierce Bradley, Bradley Lumber Company, to annex a portion of his property adjacent to the Marion City Square Shopping Center.

**RESOLUTION - DIRECTING THE CLERK TO INVESTIGATE:** Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 FROM BRADLEY LUMBER COMPANY, INC:**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on the 21st day of November, 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 proceedings 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;

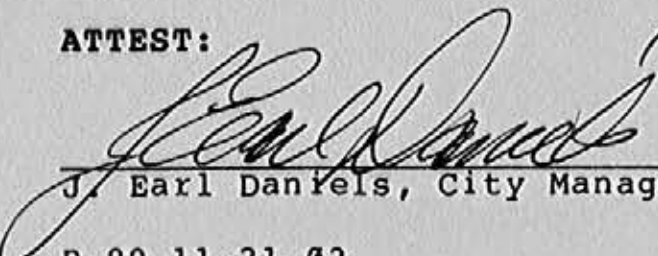
NOW THEREFORE BE IT RESOLVED by the City Council of the City of Marion:

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 this investigation.

ADOPTED this the 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

R-89-11-21-02

**CERTIFICATE OF SUFFICIENCY - PETITION REQUESTING ANNEXATION -BRADLEY LUMBER COMPANY:** Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to accept the following Certificate of Sufficiency:




# 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 November, 1989.

  
J. Earl Daniels, City Manager/Clerk

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 AS AMENDED: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council 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 o'clock, P.M. on the 5th day of December, 1989.

Section 2. The area proposed for annexation is described as follows:

**BEGINNING** at an existing iron pin located within the private drive known as Robinson Road, said existing iron pin being a corner common with McCarthy (See Deed Book 255, Page 158), said **BEGINNING** existing iron pin being further identified as the sixth corner in Deed Book 382, Page 229 of the McDowell Public Registry; and running thence from said beginning existing iron pin and with the line of McCarthy, South 38 degrees 58 minutes 34 seconds East 68.65 feet to an existing iron pin, identified as the seventh corner in Deed Book 382, Page 229; thence still continuing with the line McCarthy the following three courses and distances: North 72 degrees 08 minutes 22 seconds East 56.36 feet to an iron pin set, the second corner as set out in Deed Book 382, Page 939, North 59 degrees 19 minutes 50 seconds East 112.89 feet to an iron pin set and North 34 degrees 20 minutes 47 seconds East 20.98 feet to an iron pin set, a corner common with McCarthy (see Deed Book 382, Page 255 and Deed Book 382, Page 227), in the line of Williams C. Nichols (see Deed Book 91, Page 164); thence with the line of Nichols, South 76 degrees 02 minutes 22 seconds East 71.85 feet to an existing concrete monument, a corner common with Cross (see Deed Book 185, Page 364), and being the beginning corner as set out in Deed Book 382, Page 939) and the eighth corner as set out in Deed Book 382, Page 229; thence leaving the line of Nichols and running with the line of Cross, South 81 degrees 16 minutes 19 seconds East 60.24 feet to an existing concrete monument, the beginning corner as set out in Deed Book 362, Page 548; thence leaving the line of Cross and running with the line of Bradley Lumber Company, Inc. South 52 degrees 31 minutes 23 seconds West 28.66 feet to a point which is located North 57 degrees 43 minutes 42 seconds West 86.55 feet from a concrete monument set, the second corner as set out in Deed Book 362, Page 839; thence still continuing with the line of Bradley Lumber Company, Inc., South 52 degrees 24 minutes 37 seconds West 188.24 feet to an iron pin; thence South 50 degrees 51 minutes 18 seconds West 83.76 feet to a point; thence South 47 degrees 54 minutes 36 seconds West 16.85 feet to an existing concrete monument; thence North 41 degrees 00 minutes 42 seconds West 17.49 feet to an iron pin; thence North 36 degrees 42 minutes 20 seconds West 178.47 feet to an existing iron pin located within the private road known as Robinson Road; thence with Robinson Road, North 49 degrees 26 minutes, 18 seconds East 42.78 feet to the point and place of **BEGINNING**.

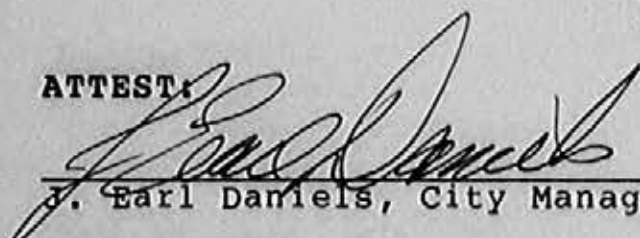
Section 3. Notice of said public hearing shall be published in the McDowell News, a newspaper having general circulation in the City of Marion, at least ten (10) days prior to the date of said public hearing.



ADOPTED this the 21st day of November, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

R-89-11-21-03

**MR. FRED BOYD - PETITION FOR ANNEXATION:** The City Manager presented a petition for annexation from Mr. Fred Boyd for his property on Rutherford Road.

**RESOLUTION DIRECTING CLERK TO INVESTIGATE:** Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-31  
FROM FRED BOYD**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on the 21st day of November, 1989 by the City Council, and

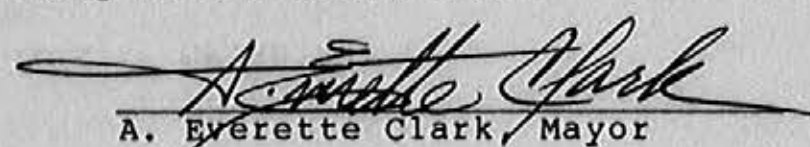
WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

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 this investigation.

ADOPTED this the 21st day of November, 1989.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

R-89-11-21-04

**CERTIFICATE OF SUFFICIENCY:** Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to accept the following Certificate of Sufficiency:

**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-331, as amended.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion, Carolina, this the 21st day of November, 1989.

  
J. Earl Daniels, City Manager/Clerk

**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 o'clock, P.M. on the 5th day of December, 1989.

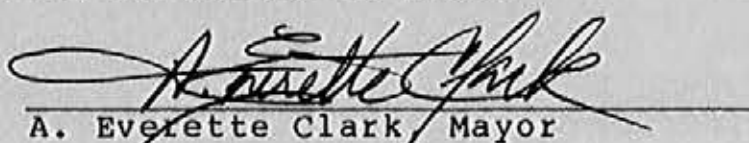
Section 2. The area proposed for annexation is described as follows:

A legal description of a 18.19 acre tract located in Marion Township, McDowell County, North Carolina on the West side of US Hwy #221 and NC Hwy #226.

**BEGINNING** on a point in the center line of Muddy Creek and in the center line of US Hwy #221 and NC Hwy #226; said Beginning point being a South East corner of the existing City of Marion current City Limits and runs; thence South 39 degrees 16 minutes 28 seconds 1,118.40 feet to a point in the center line of US Hwy #221 and NC Hwy #226; thence leaving US Hwy #221 and NC Hwy #226 South 69 degrees 22 minutes 09 seconds West 49.37 feet to a concrete monument in place of the second (2) corner of the Deed Book #236, page #06; said corner being a point in the North Eastern boundary line of the Poteat Property as recorded in Deed Book #236, page #06; thence with the common boundary line of the Poteat Property the following two (2) courses and distances North 38 degrees 34 minutes 28 seconds West 356.58 feet to a one (1) inch existing iron pipe; said iron pipe; said iron pipe being the **BEGINNING** corner of Deed Book #365, Page #486, also being the **BEGINNING** corner of Deed Book #236, Page #06; thence continuing with the Poteat Property South 51 degrees 25 minutes 32 seconds West 278.23 feet to a point in the Eastern Right Of Way of the new Marion By-Pass; thence leaving the Poteat Property and running with the new Marion By-Pass the following courses and distances; North 30 degrees 52 minutes 32 seconds West 69.20 feet; North 42 degrees 22 minutes 04 seconds West 127.24 feet; North 58 degrees 45 minutes 00 seconds West 339.44 feet; North 79 degrees 35 minutes 51 seconds West 229.03 feet; North 79 degrees 51 minutes 01 seconds West 374.75 feet; North 73 degrees 35 minutes 48 seconds West 105.73 feet; North 73 degrees 04 minutes 51 seconds West 315.64 feet; North 69 degrees 27 minutes 14 seconds West 19.81 feet to a point in the southern boundary of Deed Book number 389, Page 887 commonly known as the Fred T. Boyd Property; thence a new line through the Boyd Property; North 00 degrees 07 minutes 47 seconds West 441.81 feet to an existing iron pipe; said iron pipe being the South West corner of the Hollifield property as recorded in Deed Book #198, page #115; thence with the common Southern Boundary line of the Hollifield property North 84 degrees 34 minutes 19 seconds East 387.15 feet to a point in the center line of Muddy Creek; said point being in the Western boundary line of the present City Limit boundary; thence with the center line of Muddy Creek the following courses and distances and distances; South 00 degrees 51 minutes 24 seconds West 28.99 feet; South 41 degrees 16 minutes 24 seconds East 88.52 feet; South 40 degrees 39 minutes 48 seconds East 56.90 feet; South 70 degrees; 35 minutes 36 seconds East 212.27 feet; South 86 degrees 04 minutes 00 seconds East 75.67 feet; North 81 degrees 12 minutes 00 seconds East 109.17 feet; South 72 degrees 09 minutes 36 seconds East 161.30 feet; South 88 degrees 13 minutes 36 seconds East 178.01 feet to a point of **BEGINNING** containing 18.19 acres as shown on an unrecorded plat, surveyed by Suttles Surveying, P A. and being captioned, "Survey for Fred Boyd", being dated November 02, 1989. Map file Number #10723A. The above description is a portion of Deed Book #389, Page 887, Tracts one (1) and three (3) as recorded in the McDowell County Register of Deeds.

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 the said public hearing.

ADOPTED this the 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:



  
J. Earl Daniels, City Manager/Clerk

R-89-11-21-05

**CHARLES AND JACQUELINE ADAMS - PETITION REQUESTING ANNEXATION:** The City Manager presented a petition requesting annexation from Charles and Jacqueline Adams for their property adjacent to the Catawba River. A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to not accept the Petition for Annexation - Charles and Jacqueline Adams based on the inability to provide water and/or sewer service to the property as outlined in the statutes governing annexations.

**1988 - 1989 BUDGET AMENDMENT:** The City Manager stated that prior to closing out the books for the year, some money had not been transferred to the Capital Reserve Account. He stated that in order to transfer the funds, the budget for the last fiscal year and the present fiscal year had to be amended.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Budget Amendment:

**1988-89 BUDGET ORDINANCE  
AMENDMENT**

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

Section 1. General Fund Revenues, Account Number 10-364-00 Garbage Fees is increased from \$18,000 to \$22,270 an increase of \$4,270.

Section 2. General Fund Expenditures, Inspection Department, Account Number 10-500-04 is increased from \$5,000 to \$9,270 an increase of \$4,270.

Section 3. 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 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**1989-90 BUDGET AMENDMENT:** Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve the following Budget Amendment:

**1989-90 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 1989-90 as adopted by the City Council on the 20th day of June, 1989 is hereby amended as follows:

Section 1. General Fund Revenues, Account Number 10-399-00, Surplus Appropriated is increased from \$333,841 to \$356,341 by a supplemental appropriation from unappropriated surplus in the amount of \$22,500.

Section 2. General Fund Expenditures, Non-Departmental Department, Transfer to Capital Project Fund, Account Number 10-660-95 is increased from \$219,855 to \$242,355, an increase of \$22,500.

Section 3. Water-Sewer Fund Revenues, Account Number 30-299-00, Fund Balance Appropriated is increased from \$190,421 to \$191,173 an increase of \$752.

Section 4. Water-Sewer Fund Expenditures, Account Number 30-660-94 Transfer to Capital Reserve Fund is increased from \$43,400 to \$44,152, an increase of \$752.

Section 5. Capital Reserve Fund Revenues, Transfer from General Fund, Account Number 75-397 is increased from \$219,855 to \$242,355 an increase of \$22,500.



Section 6. Capital Reserve Fund Revenues, Transfer from Water-Sewer Fund, Account Number 75-398 is increased from \$43,400 to \$44,152, an increase of \$752.

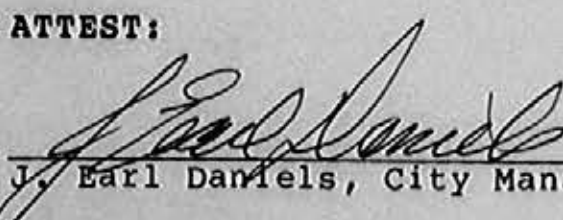
Section 7. Capital Reserve Fund Revenues, Fund Balance Appropriated, Account Number 75-399 is decreased from \$178,376 to \$155,124, a decrease of \$23,252.

Section 8. 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 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

<sup>19</sup>  
1988-1989 ANNUAL AUDIT REPORT: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to accept the 1988-1989 Annual Audit Report as submitted by the CPA Firm of Johnson, Price and Sprinkle and allow the Mayor and City Manager to execute any documents relating to the audit.

SPEED LIMIT ORDINANCE - SPAULDING ROAD: Upon a motion by Councilman Little, Seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance:

**ORDINANCE ESTABLISHING A 20 MILE PER  
HOUR SPEED LIMIT SPAULDING ROAD**

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 twenty (20) miles per hour on the following streets or portions of streets:

- a. Spaulding Road - between Rankin Drive and Medical Court.

Section 2. 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:

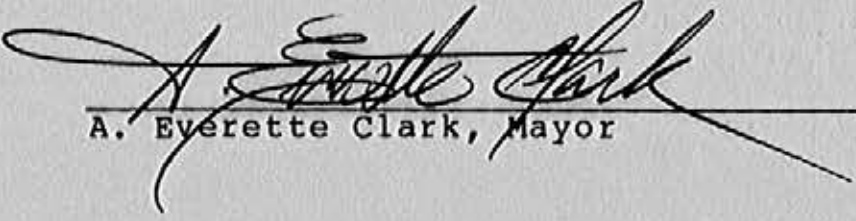
- a. Spaulding Road - Between Medical Court and Veterans Drive.

Section 3. 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 4. 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 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

O-89-11-21-02

ORDINANCE - ESTABLISHING A STOP SIGN ON SPAULDING ROAD: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance:

**ORDINANCE REQUIRING VEHICLES TO STOP AT VARIOUS INTERSECTIONS:**

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



Section 1. When Stop signs are erected at the following intersections, every driver of a vehicle shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersection roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

A. Veterans Drive, stop before entering from Spaulding Road.

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 21st day of November, 1989.

  
A. Everette Clark, Mayor

ATTEST:

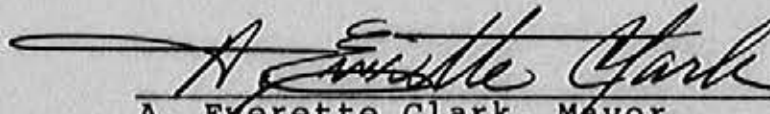
  
J. Earl Daniels, City Manager/Clerk

O-89-11-21-03

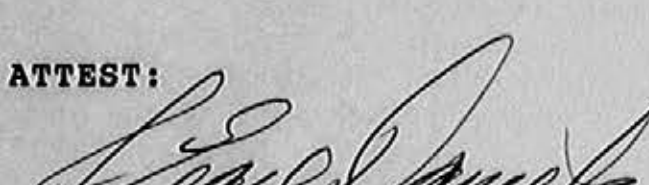
**PROPERTY PURCHASE - MS. TOMLINSON:** The City Manager stated that the of the property under consideration for purchase had been contacted and an offer given to her, however, she stated that she felt that she could not sell the property for less than \$25,000.00. The City Manager asked if Council would be willing to pay that price for the land.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to purchase property on South Main Street belonging to Ms. Velma Tomlinson in the amount of \$25,000.00. Said property is located on the east side of Main Street just south of property used by Duke Power Company as a parking lot.

**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

December 5, 1989

The City Council for the City of Marion met in Regular Session on Tuesday night, December 5, 1989 at 7:00 P.M. in the City Council Chamber.

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

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

**GUESTS PRESENT:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District; Mrs. A. Everette Clark; Mrs. Steve Little, and Miss Mary Virginia Little.



**APPROVAL OF MINUTES:** Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the November 21, 1989 meeting.

**OATH OF OFFICE TO MAYOR-ELECT A. EVERETTE CLARK:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to Mayor-Elect A. Everette Clark. A copy of the Oath of Office is attached to and made a part of these minutes.

**OATH OF OFFICE TO COUNCILMAN-ELECT STEPHEN R. LITTLE:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to Councilman-Elect Stephen R. Little. A copy of the Oath of Office is attached to and made a part of these minutes.

**OATH OF OFFICE TO COUNCILMAN-ELECT ANGUS STRONACH:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to Councilman-Elect Angus Stronach. A copy of the Oath of Office is attached to and made a part of these minutes.

**OATH OF OFFICE TO COUNCILMAN ELECT JOE TYLER:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to Councilman-Elect Joe Tyler. The Oath of Office is attached to and made a part of these minutes.

**APPOINTMENT OF CITY CLERK/FINANCE OFFICER:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to appoint J. Earl Daniels as City Clerk/Finance Officer.

**OATH OF OFFICE TO CITY CLERK/FINANCE OFFICER:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to City Clerk/Finance Officer, J. Earl Daniels. A copy of the Oath of Office is attached to and made a part of these minutes.

**APPOINTMENT OF CITY ATTORNEYS:** Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to appoint the law firm of Dameron & Burgin as City Attorneys.

**OATH OF OFFICE TO CITY ATTORNEYS:** Ms. Loto J. Greenlee, Chief District Court Judge, 29th Judicial District administered the Oath of Office to City Attorneys E. P. Dameron and Penn Dameron. Copies of the Oaths of Office are attached to and made a part of these minutes.

**SELECTION OF MAYOR PRO-TEM:** Councilman Tyler stated that he would like to nominate Councilman Robert Ayers as Mayor Pro-Tem. The nomination was seconded by Councilman Cross.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to close the nominations.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to appoint Councilman Robert Ayers as Mayor Pro-Tem.

**APPOINTMENT OF COMMITTEES:** Mayor Clark stated that he would like to make the following Committee Appointments:

1. **Street Committee:** Councilman Tyler and Councilman Cross.
2. **Police Committee:** Councilman Little to serve with Mayor A. Everette Clark, City Manager J. Earl Daniels and Police Chief Bill Gilsdorf.
3. **Utility Committee:** Councilman Ayers and Councilman Stronach.
4. **Cemetery Committee:** Councilman Tyler and Councilman Cross.
5. **Fire Committee:** Councilman Ayers to serve with Mayor A. Everette Clark, City Manager J. Earl Daniels and Fire Chief Arthur Edwards.
6. **Recreation and Community Building Committee:** Councilman Ayers and Councilman Little.
7. **Insurance Committee:** Councilman Stronach and Councilman Cross.
8. **Grievance Committee Chairman:** Councilman Stronach

**TAX REFUND - MR. EDWARD SHELL:** The City Manager presented a request for a tax refund for Mr. Edward Shell for the years 1988 and 1989. The refund is in the amount of \$87.12 and is for property which Mr. Shell sold to Mr. Robert Hamilton.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to approve the tax refund in the amount of \$87.12 to Mr. Edward Shell for property he no longer owned.



**LETTER OF RESIGNATION - SUPERVISOR OF ELECTIONS:** The City Manager read a letter of resignation from Ms. Jane Sigmon, Supervisor of Elections. The letter stated that due to the change in her employment, it was necessary for her to resign.

The City Manager stated that the Board of Elections had to appoint the Supervisor of Elections, however, it would need to be someone who was available to the general public during the regular hours of City Hall offices.

Council agreed to discuss the matter further at their meeting the first week in January.

**PERMISSION TO PURCHASE SUPPLIES FROM MERCHANTS ASSOCIATION:** The City Manager stated that he needed permission from Council to purchase three desks, three chairs and one microwave in the amount of \$360.00 from the Merchants Association. He stated that the Merchants Association was going out of business and that they had offered to sell these items to the City.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to allow the City Manager to purchase three desks, three chairs and one microwave oven from the Merchants Association in the amount of \$360.00.

**PUBLIC HEARING - ANNEXATION - MARION CITY SQUARE SHOPPING CENTER - MR. PIERCE BRADLEY:** The City Manager opened a Public Hearing for the purpose of annexation of property owned by Mr. Pierce Bradley, adjacent to Marion City Square Shopping Center. No one was present concerning the Public Hearing and the Public Hearing was closed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council 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 5th day of December, 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 31st day of December, 1989:

**BEGINNING** at an existing iron pin located within the private drive known as Robinson Road, said existing iron pin being a corner common with McCarthy (see Deed Book 255, Page 158), said **BEGINNING** existing iron pin being further identified as the sixth corner in Deed Book 382, Page 229 of the McDowell Public Registry; and running thence from said beginning existing iron pin and with the line of McCarthy, South 38 degrees 58 minutes 34 seconds East 68.65 feet to an existing iron pin, identified as the seventh corner in Deed Book 382, Page 229; thence still continuing with the line McCarthy the following three courses and distances: North 72 degrees 08 minutes 22 seconds East 56.36 feet to an iron pin set, the second corner as set out in Deed Book 382, Page 939, North 58 degrees 19 minutes 50 seconds East 112.89 feet to an iron pin set and North 34 degrees 20 minutes 47 seconds East 20.98 feet to an iron pin set, a corner common with McCarthy (see Deed Book 382, Page 255 and Deed Book 382, Page 227), in the line of Williams C. Nichols (see Deed Book 91, Page 164), thence with the line of Nichols, South 76 degrees 02 minutes 22 seconds East 71.85 feet to an existing concrete monument, a corner common with Cross (see Deed Book 185, Page 364), and being the beginning corner as set out in Deed Book 382, Page 939 and the eighth corner as set out in Deed Book 382, Page 229; thence leaving the line of Nichols and running with the line of Cross, South 81 degrees 16 minutes 19 seconds East 60.24 feet to an existing concrete monument, the beginning corner as set out in Deed Book 362, Page 548; thence leaving the line of Cross and running with the line of Bradley Lumber Company, Inc. South 52 degrees 31 minutes 23 seconds West 28.66 feet to a point which is located North 57 degrees 43 minutes 42 seconds West 86.55 feet from a concrete monument set, the second corner as set out in Deed Book 362, Page 839; thence still continuing with the line of Bradley Lumber Company, Inc., South 52

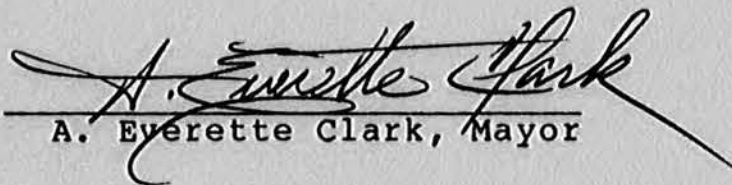


degrees 24 minutes 37 seconds West 188.24 feet to an iron pin; thence South 50 degrees 51 minutes 18 seconds West 83.76 feet to a point; thence South 47 degrees 54 minutes 36 seconds West 16.85 feet to an existing concrete monument; thence North 41 degrees 00 minutes 42 seconds West 17.49 feet to an iron pin; thence North 36 degrees 42 minutes 20 seconds West 178.47 feet to an existing iron pin located within the private road known as Robinson Road; thence with Robinson Road, North 49 degrees 26 minutes 18 seconds East 42.78 feet to the point and place of BEGINNING.

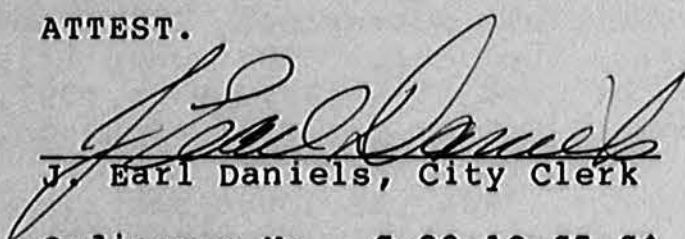
Section 2. Upon and after the 31st day of December, 1989 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the 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 5th day of December, 1989.

  
A. Everette Clark, Mayor

ATTEST.

  
J. Earl Daniels, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Ordinance No. 0-89-12-05-01

PUBLIC HEARING - ANNEXATION - FRED BOYD PROPERTY: The City Manager opened a Public Hearing for the purpose of annexation of property owned by Mr. Fred Boyd on Rutherford Road. No one was present concerning the Public Hearing and the Public Hearing was closed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council 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 5th day of December, 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 31st day of December, 1989:

A legal description of a 18.19 acre tract located in Marion Township, McDowell County, North Carolina on the West side of US Hwy #221 and NC Hwy #226.

BEGINNING on a point in the center line of Muddy Creek and in the center line of US Hwy #221 and NC Hwy #226; said BEGINNING point being a South East corner of the existing City of Marion current City Limits and runs; thence South 39 degrees 16 minutes 28 seconds 1, 118.40 feet to a point in the center line of US Hwy #221 and NC Hwy #226; thence leaving US Hwy #221 and NC Hwy #226 South 69 degrees 22

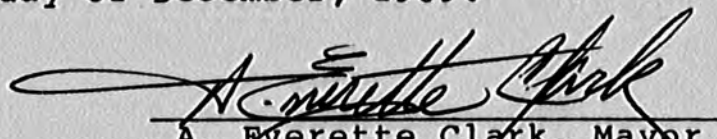


minutes 09 seconds West 49.37 feet to a concrete monument in place of the second (2) corner of the Deed Book #236, page #06; said corner being a point in the North Eastern boundary line of the Poteat property as recorded in Deed Book #236 page #06; thence with the common boundary line of the Poteat Property the following two (2) courses and distances North 38 degrees 34 minutes 28 seconds West 356.58 feet to a one (1) inch existing iron pipe; said iron pipe being the **BEGINNING** corner of Deed Book #365 Page #486, also being the **BEGINNING** corner of Deed Book #236 Page #06; thence continuing with the Poteat Property South 51 degrees 25 Minutes 32 seconds West 278.23 feet to a point in the Eastern Right-of-Way of the new Marion By-pass; thence leaving the Poteat Property and running with the new Marion By-pass the following courses and distances; North 30 degrees 52 Minutes 32 seconds West 69.20 Feet; North 42 degrees 22 minutes 04 seconds West 127.24 feet; North 58 degrees 45 minutes 00 seconds West 339.44 feet; North 79 degrees 35 minutes 51 seconds west 229.03 feet; North 79 degrees 51 minutes 01 seconds West 374.75 feet; North 73 degrees 35 minutes 48 seconds West 105.73 feet; North 73 degrees 04 minutes 51 seconds West 315.64 feet; North 69 degrees 27 minutes 14 seconds West 19.81 feet to a point in the southern boundary of Deed Book number 389, Page 887 commonly known as the Fred T. Boyd Property; thence a new line through the Boyd property; North 00 degrees 07 minutes 47 seconds West 441.81 feet to an existing iron pipe; said iron pipe being the South West corner of the Hollifield property as recorded in Deed Book #198, page #115; thence with the common Southern boundary line of the Hollifield property North 84 degrees 34 minutes 19 seconds East 387.15 feet to a point in the center line of Muddy Creek; said point being in the Western boundary line of the present City Limit boundary; thence with the center line of Muddy Creek the following courses and distances and distances; South 00 degrees 51 minutes 24 seconds West 28.99 feet; South 41 degrees 16 minutes 24 seconds East 88.52 feet; South 40 degrees 39 minutes 48 seconds East 56.90 feet; South 70 degrees; 35 minutes 36 seconds East 212.27 feet; South 86 degrees 04 minutes 00 seconds East 75.67 feet; North 81 degrees 12 minutes 00 seconds East 109.17 feet; South 72 degrees 09 minutes 36 seconds East 161.30 feet; South 88 degrees 13 minutes 36 seconds East 178.01 feet to the point of **BEGINNING** containing 18.19 acres as shown on an unrecorded plat, surveyed by Suttles Surveying, P A. and being captioned, "Survey for Fred Boyd" being dated November 02, 1989. Map file number #10723A. The above description is a portion of Deed Book #389, page #887, Tracts one (1) and three (3) as recorded in the McDowell County Register of Deeds.

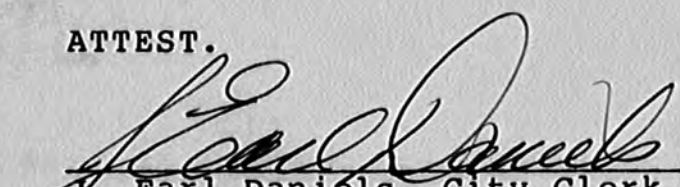
Section 2. Upon and after the 31st day of December, 1989 the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the 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 5th day of December, 1989.

  
A. Everette Clark, Mayor

ATTEST.

  
J. Earl Daniels, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Ordinance No. 0-89-12-05-02

**SIGN INSPECTION ORDINANCE - DELETE INSPECTION FEES:** The City Manager stated that when the Sign and Billboard Ordinance was initially adopted, it was believed that an annual inspection fee could be charged for each sign. He stated that the League of Municipalities had not been able to find specific authority allowing an annual inspection fee.

**AGENDA ITEMS - CUT OFF DATE:** The City Manager stated that he would like to recommend that a "Cut-Off" date for items to be placed on the Council Agendas be set. He stated that a majority of the time, persons come in after the agendas had been sent out and requested they come to the meeting and he did not have time to get the information to Council before the meeting. He stated that he would like to keep the General Public part of the meetings so that persons could come, however, he would be able to advise them that the item may be tabled until the next meeting and information had been gathered.

Councilman Little stated that he felt that a "cut-off" date was generally standard practice and he thought it would be a good idea.



Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to set a "cut-off" date for agenda items on Thursday at 5:00 P.M. prior to the Tuesday night meeting.

**COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that he had received a complaint due to the potholes on Garden Street where the new resurfacing had occurred. He stated that the person making the complaint had almost been hit by someone swerving to miss the potholes. He stated that he would like to see the situation corrected.

**COUNCILMAN AYERS - COMMENTS:** Councilman Ayers stated that he had seen several persons making left hand turns coming out of the Post Office onto Main Street where there was a No Left Turn Sign.

Police Chief Gilsdorf stated that the sign had been placed there by the Post Office and that the Police Department had no authority relating to the sign. A short discussion followed.

Councilman Ayers made a motion to refer the matter to the Street Committee. Councilman Little seconded the motion. The vote was as follows: Ayes: Councilman Stronach, Councilman Ayers, Councilman Cross, and Councilman Little. Noes: Councilman Tyler.

**COMMENTS - STREET LIGHTS - MAIN STREET:** Councilman Little stated that he had noticed that some of the new lights on Main Street did not burn.

The City Manager stated that the only explanation he had received from Duke Power was that the lights were controlled by an electronic eye and that light must be hitting the eye causing the lights to go out. He stated that it had been suggested that the lights be left burning all the time until the problem was corrected. He stated that the lights were billed at a flat rate and that the cost would not increase. Council was in agreement to burn the lights all the time until the problem was corrected.

**COUNCILMAN STRONACH - COMMENTS:** Councilman Stronach stated that he had been asked if Community Bank and Trust Company installed the flood light at the front of their building and if the light was on their meter. The City Manager stated that he was correct.

The City Manager stated that he had received several complaints concerning the light being so bright. He stated that he would like permission to put the light on a pole so that persons would not be blinded when they walked by the light. Council agreed to request that Community Bank and Trust locate the light on a pole rather than on the street.

Councilman Stronach stated that he would like to know the status of the photograph of the Community Bank Dome which Council let the bank borrow until one of their own could be made. He stated that he would like to know if a time limit had been set.

**STREET COMMITTEE REPORT - DRAINAGE PROBLEMS:** The City Manager stated that he had met with the Street Committee concerning the various drainage problems around town. He stated that their recommendation was to contact an Engineer to get an estimate on the cost for helping to correct some of the problems.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to contact Mr. Gary McGill for an estimate on the project.

The City Manager stated that the Hydraulics Specialist for the Department of Transportation had visited the problem areas around town. He stated that the Engineer would submit his findings to Council in a letter.

**SIDEWALK - SUGAR HILL ROAD:** The City Manager stated that he and the Mayor had talked with Mr. Earl McEntire of the Department of Transportation concerning sidewalks for the West Marion area along Sugar Hill Road. He stated that they had been informed that they should contact the local board member.

**POLICE REPORT - CERTIFICATES OF RECOGNITION:** The Police Chief stated that he would like to have the permission of Council to present Certificates of Recognition to the following persons for outstanding help to the Police Department: The McDowell County REACT Team and the following individuals in particular: Mr. Larry Childers, Ms. Carolyn Childers, Ms. Beulah Creech, Mr. Garland Creech, Mr. Bill King, Mr. Robert Loftis, Mr. Troy Lowery, Mr. Don Parker, Mr. John Smith, Mr. Gene Venton, Ms. Yonna Venton, Mr. Ellis Workman and Mr. Robin Hood.

In addition, he requested certificates for the following individuals: 1. Mr. Pete Hamlin for towing service donated to the Marion Police Department; 2. Mr. Chris Kirby and Mr. Bill Kehler for assisting in the reporting and capture of a theft suspect; 3. Ms. Pamela Cline, former Marion Police Department employee.



Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to approve the issuance of the Certificates of Recognition.

**PARKING PROBLEM - MAIN STREET:** The Police Chief stated that he was having a problem with persons from MACA parking in a commercial loading zone on Main Street when they were unloading props or other items used in their plays. A discussion followed. It was agreed to re-write the ordinance.

**REPORTS:**

**1. DRUG SUMMIT MEETING:** The City Manager stated that there would be a Drug Summit Meeting on Friday, December 1, 1989 at 12:00 P.M. at the Western Sizzlin Steak House.

**2. TCI CABLEVISION - RATE INCREASE:** The City Manager stated that there would be a rate increase for TCI Cablevision effective with the January billing. The rates will increase from \$16.50 to \$17.75 for basic service.

**3. PAINTER, PATRICK & COMPANY, P.A.:** The City Manager stated that he had received a letter from Painter, Patrick and Company to be placed on the bid list for the annual audit report. He stated that the firm was located in Asheville, North Carolina.

**4. CHRISTMAS PARADE:** The City Manager stated that the Christmas Parade would be on Saturday, December 9, 1989 at 10:00 A.M. and that the Mayor and Council had been invited to ride in the parade.

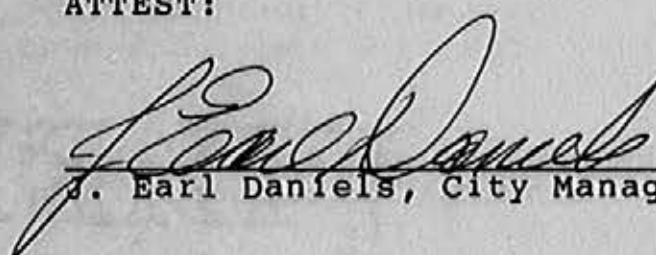
**5. CHRISTMAS HOLIDAYS - CITY EMPLOYEES:** The City Manager stated that the City Offices would be closed on Monday and Tuesday, December 25, and 26, 1989 for the Christmas Holidays. He stated that the office would close at 4:00 P.M. on Friday, December 22, 1989 for the annual employee get-together and to distribute turkeys.

**6. SET DATE FOR NEXT MEETING:** The City Manager stated that the next Regular Meeting of Council would be on December 19, 1989. He asked if Council would like to cancel the meeting as they had in the past due to the Christmas holidays and let the next meeting be on January 2, 1990. Council was in agreement to cancel the regular meeting to be held on December 19, 1989 due to the Christmas holidays.

**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 2, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, January 2, 1990 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; Bill Gilsdorf, Chief of Police; Aaron Adams, Street Superintendent; Larry Ballard, Water Distribution Superintendent; and Lydia Carrington, News Reporter, the McDowell News.

**GUESTS PRESENT:** Kyle Ledbetter and Volunteer Firemen - Fred Brown, Bill Smith, Jim Neal, Bill Poteat, Lee R. Cate, Jim Young and John Reese.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the October 24, 1989 meeting, the December 5, 1989 meeting and the December 20, 1989 meeting.



**COMPLAINT - WATER DEPOSIT:** The City Manager presented a complaint from Mr. Kenneth Winchester concerning the city charging a water deposit prior to providing service and the city refusing to accept payroll checks. Mr. Winchester did not attend the meeting. The City Manager informed Council that he was of the opinion that the city should not accept second party checks because of administrative problems should the checks be returned marked insufficient funds. Council agreed that the city should not accept second party checks. The City Manager informed Council that he would instruct city employees not to accept second party checks.

**TAX REFUND REQUEST - MR. WILLIS TRUESDALE** - The City Manager presented a report from Claudia Shehan, Tax Collector stating that Mr. Truesdale paid taxes on December 12, 1988 on \$200.00 valuation for personal property located at Westwood Chateau Apartments, which at that time was outside the city limits. The refund requested is \$1.18. Upon a motion by Councilman Little, seconded by Councilman Tyler the City Council voted unanimously to refund Mr. Truesdale \$1.18 as requested.

**TAX REFUND REQUEST - MR. ARNOLD MANN** - The City Manager presented a report from Claudia Shehan, Tax Collector stating that Mr. Arnold Mann paid his city taxes December 8, 1989 which included \$29.74 for the tax on his vehicle. Mr. Mann's vehicle should have been listed with his home which is located in Nebo which is outside the city limits. The refund requested is \$29.74. Upon a motion by Councilman Little, seconded by Councilman Ayers the City Council voted unanimously to refund Mr. Mann \$29.74 as requested.

**FIRE DEPARTMENT BUILDING - PROPOSAL** - Several members of the Marion Volunteer Fire Department appeared before the City Council concerning an option to construction of a new municipal building. Jim Neal, acting as spokesman, informed the City Council that members of the volunteer fire department would like to offer an option to the City Council for consideration prior to a decision on construction of a new municipal building. He presented a drawing showing the location of a proposed fire station on city owned property located south of Henderson Street at the southern end of Logan Street. He informed Council that an adequate two-story Fire Station could be constructed on the Public Parking Lot and still leave 27 public parking spaces. The proposed station would have approximately 8,750 Sq. Ft. and estimated cost for construction would be \$300,000 less Grading expenses. Council agreed to look at this option, as well as other options, prior to a decision.

**UTILITY SERVICE REQUEST - MR. KYLE LEDBETTER** - The City Manager informed the Council that Mr. Ledbetter owns a certain piece of property located on the south side of the five-lane. A part of the property is located inside the city limits and part outside. Mr. Ledbetter plans to develop that portion located outside the city limits and would like to request sewer service only for that area. Mr. Ledbetter has two wells located on the property. The City Manager stated that City Policy provides that sewer service will not be provided to property located outside the city unless there is a written agreement requiring the City to provide such service. Such agreements generally come from the city obtaining a right-of-way for a sewer line to cross property located outside the city limits and giving the owner a right to connect to the sewer line instead of the city paying for the right-of-way. Free service is not given, only a free tap to the line. The City Manager also advised that it is City Policy that the city will not provide only sewer service if water service is also available. The City Manager advised that if Council agrees for these two policies to remain in effect, he will have them recorded for future reference. Council agreed that the policies should remain in effect.

Mr. Ledbetter was advised that he could work with the City Manager concerning utility service to his property if he wished to petition for annexation.

**PUBLIC HEARING - MT. MORRIAH BAPTIST CHURCH - PROPERTY EXCHANGE** - The City Manager stated that the Public Hearing to receive comments from the general public regarding the proposed property exchange by and between Mr. Morriah Baptist Church and the City of Marion was open. The City Manager advised that public notice was given in the McDowell News regarding the proposed property exchange. No one was present to comment on the property exchange. The Public Hearing was closed. Upon a motion by Councilman Little, seconded by Councilman Stronach the City Council unanimously voted to authorize the Mayor and City Manager to execute the necessary documents to provide for the exchange of properties as described and provided in the below legal notice:

PURSUANT to North Carolina General Statute 160A-271, notice is hereby given that the City of Marion intends to exchange the tract of land having a value of approximately \$1,500.00 and identified as Tract I below for a tract of land having a value of approximately \$1,500.00 owned by Mt. Morriah Missionary Baptist Church, and identified as Tract II below. This intention of exchange of properties is made pursuant to a resolution adopted by the City Council of Marion, North Carolina on November 21, 1989.

**TRACT I.**

Being a parcel identified as Tract B containing 0.20 acres, more or less, as shown



on that certain unrecorded plat of survey prepared by R.L. Greene Surveying and Mapping, Registration L-1517, 10 South Logan Street, Marion, North Carolina, dated March 3, 1989, and from which unrecorded plat of survey all calls used in this description were taken.

Said parcel is bounded on the East by Mt. Moriah Baptist Church (see Deed Book 227, Page 820) on the South by Wilhemenia Street, on the West by lands conveyed by deed of even date herewith from Mt. Moriah Baptist Church to the City of Marion and more particularly described by metes and bounds as follows: BEGINNING on an existing iron pin, the beginning corner as set out in Deed Book 382, Page 429 of the McDowell County Public Registry, being the Southeastern corner of the parcel conveyed by deed of even date herewith to the City of Marion and running thence with the division line of Tract A and Tract B as shown on the unrecorded plat of survey referenced herein, North 08 degrees 19 minutes 00 seconds East 23.65 feet to an existing iron pin, said iron pin being located South 08 degrees 19 minutes 00 seconds West 93.35 feet from an iron pin set, the second corner as set out in Deed Book 382, Page 429 thence leaving the line of Tract A, the following courses and distances: North 18 degrees 23 minutes 17 seconds East 20.54 feet, North 22 degrees 44 minutes 46 seconds East 39.01 feet, North 23 degrees 32 minutes 57 seconds East 22.68 feet, North 23 degrees 00 minutes 21 seconds East 18.40 feet, North 25 degrees 27 minutes 18 seconds East 22.62 feet, North 22 degrees 04 minutes 00 seconds East 37.18 feet, North 15 degrees 59 minutes 51 seconds East 38.95 feet, North 18 degrees 55 minutes 56 seconds East 25.37 feet, North 27 degrees 38 minutes 31 seconds East 7.82 feet to an existing iron pin at the Southern edge of the unopened street known as Grayson Street; thence with the unopened street known as Grayson Street, South 81 degrees 41 minutes 00 seconds East 8.09 feet to an existing iron pin; thence with the line of lands now or formerly owned by Mt. Moriah Baptist Church (see Deed Book 227, Page 820), South 08 degrees 19 minutes 00 seconds West 250.00 feet to an iron pin set at the Northern edge of Wilhemenia Street, said point being located North 08 degrees 15 minutes 51 seconds East 60.01 feet from an iron pin set at the Northern margin of Wilhemenia Street; thence with the Northern edge of Wilhemenia Street, North 81 degrees 41 minutes 00 seconds West 60.00 feet to the point and place of BEGINNING.

#### TRACT II.

BEING a parcel identified as Tract A containing 0.13 acres, more or less, as shown on that certain unrecorded plat of survey prepared by R.L. Greene Surveying and Mapping, Registration L-1517, 10 South Logan Street, Marion, North Carolina, dated March 3, 1989, and from which unrecorded plat all calls used in this description were taken.

Said parcel is bounded on the West by lands now or formerly owned by James E. Lindsey (see Deed Book 202, Page 79), on the South by Wilhemenia Street, on the East by an existing roadway extending in a Northerly direction to Grayson Street (unopened). Said parcel is more particularly described by metes and bounds as follows: BEGINNING at an iron pin set, the beginning corner as set out in Deed Book 382, Page 429, said iron pin being located in the Northern margin of Wilhemenia Street and at the Southwestern corner of the Marion to Mt. Moriah Baptist Church; and running thence from said beginning iron pin and with the division line of Tract A conveyed herein and Tract B, both as shown on the unrecorded plat of survey referenced herein, North 08 degrees 19 minutes 00 seconds East 23.65 feet to an existing iron pin, thence leaving the line of Tract b, North 08 degrees 19 minutes 00 seconds East, crossing the existing road 93.35 feet to an existing iron pin, the second corner as set out in Deed Book 382, Page 429, thence North 81 degrees 41 minutes 00 seconds West 50.00 feet to an iron pin set; thence with the line of lands now or formerly owned by Lindsey (see Deed Book 202, Page 79), South 08 degrees 19 minutes 00 seconds West 117.00 feet to an iron pin set in the Northern edge of Wilhemenia Street; thence with said street, South 81 degrees 41 minutes 00 seconds East 50.00 feet to the point and place of BEGINNING.

Reference is made to deed recorded in Book 382, Page 429 of the McDowell County Public Registry.

Notice is further given that this matter will be considered and passed upon at the next regular meeting of the City Council to be held in the City Council Chambers on January 2, 1990.

Any person interested in this matter or having any question concerning the same is invited to attend said meeting.

**ZONING OF PROPERTY BELONGING TO BRADLEY LUMBER COMPANY:** The City Manager opened a Public Hearing for the purpose of zoning property recently annexed into the City as of December 31, 1989.

The City Manager presented a memorandum from Mrs. Lovina Smith, Zoning Administrator which stated that the Planning Board had unanimously recommended that property belonging to Bradley Lumber company located at the end of Robinson Road adjacent to the back portion of the Marion City Square Shopping Center (Legal



Description can be found in the minutes of December 5, 1989), be zoned C-2 General Business.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to accept the recommendation of the Planning Board and zone the Bradley property as C-2 General Business.

**ZONING OF PROPERTY BELONGING TO FRED BOYD:** The City Manager presented a memorandum from Mrs. Lovina Smith, Zoning Administrator which stated that the Planning Board had unanimously recommended that the property belonging to Mr. Fred Boyd located on Hwy 221 and 226 South near the intersection of 221 South and the new Marion By-Pass (Legal Description can be found in the minutes of December 5, 1989), be zoned as C-2 General Business.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to accept the recommendation of the Planning Board and zone the property belonging to Fred Boyd as C-2 General Business.

There being no further business, the City Manager closed the Public Hearing.

**TREE BOARD - APPOINT ONE MEMBER - 3 YEAR TERM:** The City Manager stated that at the last meeting he had informed Council that the term of Mr. Warren Hobbs had expired and that he had declined to accept a new term. He stated that since that time, Mr. Hobbs had reconsidered and would be willing to serve another term.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to appoint Mr. Warren Hobbs to a three year term of the Marion Tree Board. Said term to expire December 31, 1992.

**APPOINTMENT OF SUPERVISOR OF ELECTIONS:** The City Manager stated that at the last meeting he had presented Ms. Jane Sigmon's resignation as Supervisor of Elections. He stated that the position would have to be appointed by the Board of Elections. He stated that the person who was appointed would have to have regular office hours. He stated that he would like to recommend that the board appoint Mrs. LuAnn Ellis or Mrs. Lovina Smith to the position if Council had no objections.

Councilman Stronach asked if there would be a problem with a City employee doing the work. The City Manager stated that he did not believe so since the job was originally a part of the duties of the City Clerk. He stated that a salary adjustment would have to be made, however, that adjustment would be made by Council. There were no objections.

**RESOLUTION - POLICY REGARDING FROZEN WATER PIPES:** Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to adopt the following Resolution:

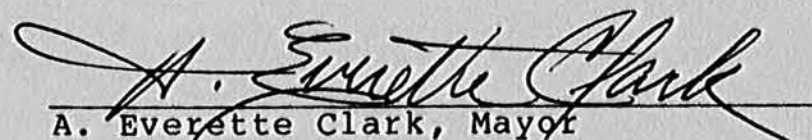
#### R E S O L U T I O N

#### POLICY REGARDING FROZEN WATER PIPES

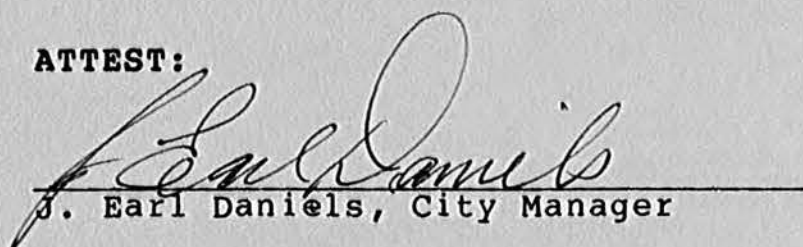
**BE IT RESOLVED** by the City Council of the City of Marion, North Carolina as follows:

- Section 1. When temperatures are below freezing, customers served by the Marion Water System, having water pipes susceptible to freezing, are encouraged to keep their faucets open just enough to allow water to run to prevent freezing of water pipes.
- Section 2. The City is not responsible for any frozen water pipes on the customer's side of the water meter.
- Section 3. City forces will attempt to thaw frozen water pipes on the City side of the water meter on a first call - first service basis. City forces will not make return calls until all other calls are completed.
- Section 4. City forces will only work during daylight hours, generally 8 o'clock A.M. to 5 o'clock P.M.

ADOPTED this the 2nd day of January, 1990.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager



R-90-01-02-01

**ASSESSMENT OF CIVIL PENALTIES - SOC - CLINCHFIELD WASTE TREATMENT PLANT:** The City Manager stated that he had received a letter from the Division of Environmental Management concerning a penalty for the violations of the Clinchfield Waste Treatment Plant.

The City Manager stated that the City had entered a Special Order by Consent which stated that the City knew that there was a problem with the plant and would attempt to correct the problem by 1991. He stated that there were certain steps which had to be completed by certain dates. He stated that the fine, in the amount of \$1,605.42 was due to the letter and report not being submitted by the date specified.

The City Manager stated that he would like to appear before the Board in Raleigh with the Mayor and Mr. Gary McGill, City Engineer to admit that the deadline was missed but the penalty is too high. He stated that he would like for any of the other Councilmen to attend if possible. A short discussion followed.

Councilman Stronach stated that previously the City Manager, Gary McGill and himself had talked with representatives in Raleigh and Asheville concerning the SOC and the steps to be taken by the City. He stated that he remembered each point being discussed step by step and that he was under the impression that when the information was received, the problems could be solved. He stated that he felt that the fine was not justified and he would sign a statement to that effect.

Council agreed to try to solve the matter by letter and if that did not solve the problem, then travel to Raleigh to try to resolve the problems. The City Manager was also advised to try to get help from Representative Bob Hunter and the North Carolina League of Cities concerning the tremendous amount of paperwork to be filed with the Raleigh office.

**SALE OF SURPLUS PROPERTY:** The City Manager stated that new windows had been installed at the Community Building and the old windows and storm windows needed to be disposed of. He stated that several persons had expressed an interest in the windows and he would like permission to advertise that they were for sale. He stated that in addition to the windows, the computer system would be surplus property once the new system was installed. He stated that he would like to advertise for this item as well.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to give the City Manager permission to advertise the windows and storm windows from the Community Building and the computer system as surplus property and accept sealed bids for their disposal.

**COMMUNITY BANK AND TRUST COMPANY BUILDING - FLOOD LIGHT:** The City Manager stated that he had talked to representatives from Community Bank and Trust concerning the placement of the flood light in front of their building to a pole so that the light would not be so bright in that area. He stated that the representatives from the bank had no objections and would try to place the light on a pole to match the new light poles in the downtown area.

**COMMUNITY BANK AND TRUST COMPANY BUILDING - PHOTOGRAPH OF DOME - REQUEST:** The City Manager stated that at the last meeting of Council, a question had arisen concerning the photograph of the dome of the Community Bank and Trust Company on loan to the bank from the City. He stated that the minutes reflected that the photograph be on loan to the bank from the City until a reproduction could be made or until the City asked for the photograph. He asked if Council would like to request the photograph to be returned.

Councilman Little stated that he felt that the end of this fiscal year should be sufficient time for the bank to have the photograph reproduced. Council was in agreement to ask for the photograph back by June 30, 1990.

#### **REPORTS:**

**1. GARY MCGILL - DRAINAGE PROBLEMS:** The City Manager stated that he had met with engineer Gary McGill concerning the drainage problems in the West Marion Area. He stated that Mr. McGill was to put his findings in writing with an estimated cost, however, at this time, he had not received the report.

**2. POST OFFICE - TRAFFIC PROBLEM:** The City Manager presented a drawing of the proposed parking area for the post office. The drawing had been done by the post office engineers and showed an entrance to the post office from Main Street and exit to Garden Street. Council asked the City Manager to show the drawing to the new Postmaster.

**3. 1990 ANNUAL RETREAT:** The City Manager stated that the Annual Retreat had been set for January 13 and 14, 1990 at The Broyhill Inn, Boone, NC. He stated that he had not invited anyone other than the Council to attend, but had made media representatives aware of the dates and times. Council agreed to leave at



8:00 A.M. January 13

**4. COUNCILMAN AYERS - COMMENTS:** Councilman Ayers stated that he would like to know the status of the State Street Shoe Repair Shop. The City Manager stated that the shop should have been closed, but it may have reopened. He stated that he had received a letter from City Attorney Penn Dameron and that he had turned the letter over to the Fire Chief for response.

Councilman Ayers stated that he had noticed some grading work being done on Rutherford Road and it looked like a septic tank was being dug. The City Manager stated that a house was being built on the property and that sewer lines crossed the property. The persons had left the lines clear so that they could be replaced.

Councilman Ayers stated that he had noticed potholes on Clairmont Street had been patched but had sunk. He asked that someone look into the matter.

**5. COUNCILMAN STRONACH - COMMENTS:** Councilman Stronach stated that he would like to ask Council to request a meeting for a legal opinion on the matter of his letter to Council of December 11, 1989.

Councilman Stronach stated that he would like to put the request to call a meeting in the form of a motion. Councilman Tyler seconded the motion.

Mayor Clark stated that he would like for the minutes to reflect that he was opposed to the motion before the item was voted on.

Councilman Cross asked for a clarification to the motion. He asked if the meeting was for a legal opinion on the role of the Mayor. Councilman Stronach stated that the question was the extent of the Mayor's authority.


Councilman Little stated that he felt no need to call a meeting that the matter had been discussed earlier when the recodification was being done.

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

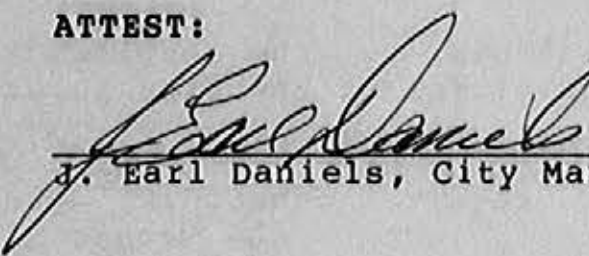
Councilman Little stated that he felt that it would be appropriate to request that the City Attorney give his opinion on the authority of Council and their extent of authority. Councilman Stronach asked if it would be of the individual Councilmen or of Council as a whole. Councilman Little stated the felt that it should be individual roles.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to request that the City Attorney give his opinion on the authority and extent of authority of individual Councilmen.

**ADJOURNMENT:** Upon a motion by Councilman Tyler, 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

January 4, 1990

The City Council for the City of Marion met in Special Session on Thursday, January 4, 1990 at 3:00 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:** City Manager J. Earl Daniels; E. P. Dameron, City Attorney; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; and Lydia Carrington, News Reporter, The McDowell News.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to obtain the opinion of the City Attorney on the authority and extent of the authority of the Mayor and the City Council Members as individuals.



Mr. E.P. Dameron, City Attorney stated that the powers of the Mayor and City Council came from the North Carolina General Assembly and from the local ordinances passed by the board at the respective times the ordinances were approved.

Mr. Dameron stated that the City Code of 1941, Article A Sections 2-1001 and 1002 stated that the Mayor had the following duties:

The Mayor shall be chief executive of the City and as such shall have general supervision over all employees and departments of the City.

Duties of the Mayor:

1. Keep himself informed as to the City's Business.
2. Preside over the meeting of the Council.
3. Sign all contracts, franchises or paperwritings authorized by Council.
4. Appoint such committees, and outline their powers and duties, as he deems necessary to properly care for the affairs of the City.
5. Make such recommendations as he deems necessary, or expedient, to the Council.

Mr. Dameron stated that in 1977, when the new Charter was ratified under the Council-Manager form of Government. Mr. Dameron stated that the Charter defined the duties of the manager as follows:

The Council shall appoint a City Manager who shall serve at the pleasure of Council, who shall be the head of the administrative branch of City government, and who shall be responsible to the Council for the proper administration of the affairs of the City. In exercising the duties of the chief administrator, the Manager shall:

(a) Except as provided in subsection (b) hereof, appoint and suspend or remove all City employees whose appointment or removal is not otherwise provided for by law, in accordance with such general personnel rules, regulations, policies, or ordinances as the Council may adopt.

(b) Recommend to the Council for their approval appointments to the positions of the City Clerk, Tax Collector, Finance Officer, Public Works Director, Fire Chief and Chief of Police. Appointments to the positions 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.

(c) Direct and supervise the administration of all departments, offices, and agencies of the City, subject to the general direction and control of the Council except as otherwise provided by law

(d) Attend all meetings of the Council and recommend any measures deemed expedient;

(e) See that all laws of the State, the City Charter and the ordinances, resolutions and regulations adopted by the Council are faithfully executed within the City.

(f) Prepare and submit the annual budget and capital program to the Council.

(g) Annually submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of the fiscal year.

(h) Make any other reports that the Council may require concerning the operations of the City departments, offices, and agencies subject to the Manager's direction and control; and

(i) Perform any other duties that may be required and authorized by the Council.

Mr. Dameron stated that Charter stated that the Mayor and City Council shall be the governing body and charged with the general government of the City. He stated that the Mayor is elected for a term of four years and is the official head of the governing body. He stated that his duties are confirmed by the North Carolina General Statutes, the Charter and the Ordinances of the City.

Mr. Dameron further stated that the General Statutes allowed all existing ordinances, resolutions, rules and regulations of the City not inconsistent with the Charter of the City to continue in effect until such time when they shall be repealed, modified or amended.

Mr. Dameron stated that the Mayor and City Council must work together unless specific powers are designated to the Mayor.

A question was asked with concern to the Mayor's power with regard to general



supervision of all departments and employees of the City. Mr. Dameron stated that this section was a subsequent statute and was repealed when the Council-Manager form of government was adopted and this duty was given to the Manager.

A question was asked with concern to the Mayor's power with regard to appointment of committees and outlining their powers and duties. Mr. Dameron stated that there was no ordinance inconsistent with this item so it would remain in effect.

Mr. Dameron stated that the "real power" of the City would rest in the Mayor and City Council. He stated that the Mayor would not have equal power and that any action of the Mayor would have to be approved by the City Council. He stated that in a sense, the Mayor was a member of the Council, that the law regards that the Mayor and Council should work together.

Mr. Dameron stated that he had been asked to comment on the individual duties of the Councilmen. He stated that an individual member of Council had no authority. He stated that there must be a quorum present or a vote must be taken and a consent of authority delegated.

Mayor Clark asked Mr. Dameron to explain in detail his opinion what the term "Official Head of the City" meant. Mr. Dameron stated that his opinion was that the Mayor was the person who the community would contact if they had business with the City. He stated that he would regard the relationship of the Mayor and the City the same as he would a father being the head of a family.

Mayor Clark asked Mr. Dameron that in appointment of the committees and outlining their duties and following Robert's Rules of Order if the Mayor had the power to appoint anyone to a committee or remove anyone from the committee and if he would be allowed to serve as an "ex-officio" member of the committee. Mr. Dameron stated that there was no ordinance in conflict with this duty so it would remain in effect. He stated that the mayor would have the authority to appoint or remove anyone from the Committee. Mr. Dameron stated that due to this fact, the Mayor could appoint himself to the committees if he so desired and would have the power to remove anyone appointed to a committee.

Councilman Stronach asked if Council had the authority to appoint a committee. Mr. Dameron stated that he felt that Council could appoint a committee, however, the committee would not have any authority and would only be able to make a recommendation for the consideration of Council.

Mayor Clark asked if the Committees would be able to meet without the direction of Council. Mr. Dameron stated that the City Council would have the right to give instructions for a committee to meet and when the committee could meet and should be asked to notify the other members of Council if a meeting was called.

Councilman Stronach stated that since the committee members are Councilmen should they ask themselves if they should meet. Mr. Dameron stated that he felt that Council would recommend that the committees should meet when the other members of Council would be able to attend if they so desired and follow the instructions given them by Council.

Councilman Tyler asked Mayor Clark in reference to his memorandum of December 7 where the section stated that he would be an "ex-officio" member of each committee and that the City Manager or his representative would attend the meetings to keep minutes, if he had the authority to order this. Mayor Clark stated that he had heard a rumor that a meeting of two members of Council and two County Commissioners had been held without himself or other members of Council being aware that there was a meeting. He stated that he had issued the memorandum so that if a committee did meet, documentation could be kept of the meeting and he and Council could be aware of the business of the City.

Councilman Stronach stated that he and Councilman Ayers did attend a meeting with some members of the County Commissioners and that he would not ask permission of Council to meet and discuss items to better the City.

A question was asked if the committee should meet only at the direction of Council. Mr. Dameron stated that if a meeting was held and the other members of Council were not aware of the meeting and it was prearranged to discuss City business, it could be in violation of the North Carolina Open Meetings Law.

Councilman Stronach stated that he felt that if a majority of Council was not present there should be no problem. Mr. Dameron stated that he was not sure that it would not fall into a "grey area" of the Open Meetings Law.

Mayor Clark stated that he had issued the memorandum so that he could keep informed of the City's business and if there were no rules or regulations no one would know what was going on.

Councilman Stronach stated that he could meet with the as friends and discuss City business and not meet as a committee at all.



Mr. Dameron stated that if a committee met to discuss business of the City that they would have to follow the Open Meetings Law.

Councilman Ayers stated that he felt that the committees could not conduct business since they could only recommend that a particular action be taken and voted on by Council.

Mr. Dameron stated that the Open Meetings Law regulations would include any and all discussions or committee meetings to discuss public business concerning the City in any way.

Mayor Clark stated that since he made the appointments to the Committees, he felt somewhat responsible for their actions. Mr. Dameron stated that he could appoint himself to the committee and that the Mayor and Council would be responsible for the actions of any committee since they were appointed as agents of the City Council.

Councilman Little stated that he felt that everyone should forget what has happened up until this point and for the benefit of the Mayor and other members of Council to have a record of each committee meeting so that every member of Council could be informed of the City's business. He stated that as a committee member, he would not want the burden of compiling minutes and would prefer that someone else be present at the meetings for that purpose so that a documented summary of the meeting could be presented to Council. Councilman Little stated that he felt it should be logical that the City Manager or his representative should be present to take minutes of each meeting. He stated that he felt that the Mayor and City Council needed to work together and share their responsibilities and knowledge with each other.

Mr. Dameron stated that he would like to recommend that since the Code was being re-written, it would be advisable for the Mayor and Council to consider the problems of the past and to remove any inconsistency with current policies.

Councilman Stronach stated that he had no problems with Councilman Little's statements except in a case where the two members of the Street Committee wanted to go and check on a pothole and the City Manager or his representative could not go, would the suggestion be that the committee members go on and then report back to Council. Councilman Little stated that there would be times when it would not be feasible for a representative to go with a committee in certain cases. He stated that he felt that it would be a good idea to have a system of rules and regulations of the committees with some common sense exceptions such as the one Councilman Stronach suggested.

Councilman Ayers stated that he agreed with Councilman Little to a point. He stated that he had attended a meeting and if there had been something pertinent or relevant to Council it would have been reported. He stated that as it turned out, nothing happened except that he found out a little more about the County's financial situation. He stated that each member of Council was a mature adult elected to a position, that they were responsible enough and had worked well together in the past and when a recommendation had been needed, it had been asked for. He stated that he felt there was no need for minutes of committee meetings to be taken that if the persons on the board were not responsible enough for what they do they did not need to be in the positions they were in.

Councilman Tyler stated that from what he had heard of the meeting, it was very fruitful and allowed the City to see the position of the County. He stated that the County had been asked for a commitment and one had been received. Mayor Clark stated that Councilman Tyler was telling him something that he did not know.

Councilman Ayers stated that he and Councilman Stronach had a lunch meeting with two members of the County Commissioners to discuss water line extensions. He stated that the feelings they got from the Commissioners was that they were receptive to the ideas, but were not financially able to contribute to the project at this time. He stated that a commitment was not received from the County.

Councilman Stronach stated that he intended to discuss the meeting with the Commissioners at a later date but he did not want someone to call his hand for discussing something for the good of the City to satisfy an ego.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, 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

January 16, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, January 16, 1990 at 7:00 P.M. in the City Council Chamber.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen: Robert Ayers, Angus Stronach, and Joe Tyler. Councilman John Cross arrived at 7:10; Councilman Steve Little arrived at 8:17.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Larry Ballard, Utility Lines Superintendent; and Eric Milsaps, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. Harold Cordell, Route 4, Marion, North Carolina.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to approve the minutes of the January 2 and January 4, 1990 meetings.

**MR. HAROLD CORDELL - WATER PROBLEM - REQUEST FOR REFUND:** The City Manager stated that Mr. Cordell had received several large water bills and when the water meter was replaced, the bills went back to the minimum amount. He stated that Mr. Cordell had requested a refund.

Mr. Cordell stated that for four months in 1989, he had received several large bills. He stated that they were not consecutive, but had skipped around during the year. He stated that he had paid a total of \$115.84 during that time and that his bill usually ran the minimum. He stated that a new meter had been installed on October 10, 1990 and that since that time, he had received minimum bills. He stated that according to his figures, he had overpaid \$75.82.

Councilman Ayers asked the Public Works Director if the meter could have been faulty. Mr. Sherlin stated that the meter had been taken to the shop twice and tested and each time, the meter checked out with a four percent variance which allowed four gallons more per one hundred gallons registered. He stated that the meter had been tested twice and there was no indications of an inaccurate meter.

Mr. Cordell stated that he had checked his meter several times and could not find any indication of a leak. Mr. Sherlin stated that he had checked for a water leak one time and the meter readers had checked one time. He stated that they could not find any indications of a leak. He did state that if the hot water tank valve opened or if the water closet was hanging up, the increase in the bill could be accounted for. The discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to refund Mr. Cordell in the amount of \$75.82.

**TAX REFUND - FIRST UNION NATIONAL BANK:** The City Manager presented a memo to Council from Ms. Claudia Shehan, Tax Collector which stated that payment in the amount of \$92.52 was received from First Union on May 12, 1989 by an attorney and then the payment in the amount of \$92.52 was received again on December 29, 1989 directly from the bank. The memorandum stated that the second payment was not discovered due to the new computer system being installed and not being able to post payments on the computer.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to refund First Union National Bank \$92.52 for overpayment of their taxes once the incorrect receipt was returned.

**TAX REFUND - THOMAS A. AND NELL C. PAGE:** The City Manager presented a memorandum to Council from Ms. Claudia Shehan, Tax Collector which stated that payment in the amount of \$526.33 was received from Mr. and Mrs. Page on July 28, 1989 and then payment was received again on January 3, 1990 in the amount of \$531.65 for taxes and penalties. The memorandum stated that the second payment was not discovered due to the new computer system being installed and not being able to post payments to the computer.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to refund Mr. and Mrs. Page in the amount of \$531.65 for overpayment of their taxes and the penalty once the incorrect receipt was returned.

**TAX REFUND - BURLINGTON INDUSTRIES:** The City Manager presented a memorandum to Council from Ms. Claudia Shehan, Tax Collector which stated that Burlington Industries had included with their tax payment, property which had been sold to Mr. Ralph Suttles. The memorandum stated that the bills had also been paid by Mr. Suttles. The memorandum stated that \$180.66 needed to be refunded to Burlington



Industries for payment of taxes on property they did not own.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to refund Burlington Industries in the amount of \$180.66 for overpayment of taxes on property sold to Mr. Ralph Suttles.

**MCDOWELL NEWS - OUTLOOK EDITION:** The City Manager stated that he had received a letter from Mr. Eric Milsaps of the McDowell News concerning an Outlook Edition and he would let him explain what he needed.

Mr. Milsaps stated that he basically wanted information on what the City had done in the last ten years and what they planned to do in the next ten years.

The City Manager asked if there would be any charges for printing the article. Mr. Milsaps stated that there would be no charge.

**MRS. ELIZABETH NOYES - COMMENTS:** The City Manager presented several letters from Mrs. Elizabeth Noyes which reflected her concerns of the Marion City Square zoning. (See Minutes of ). The letters stated that she felt that the shopping area should be screened from the residential area and that there should be no exit from the shopping mall on Montevista and that she disagreed with the plans to remove a portion of the bank at the intersection of Montevista and the Five Lane which would allow persons exiting from Montevista to have a clear view of traffic on the Five Lane.

Councilman Ayers stated that he disagreed with Mrs. Noyes comments concerning the bank at the intersection of Montevista and the Five Lane. He stated that a portion of the bank had to be removed to allow persons exiting from Montevista to see the traffic.

Mayor Clark stated that he had talked with Mr. Gene Edmonds, Divisional Engineer, NC DOT, and that he had received a copy of Mrs. Noyes' letter. He stated that he was under the impression that the matter had been turned over to DOT.

Councilman Stronach stated that since Mrs. Noyes' property had been sold, he did not see any point in replying to her letter.

Councilman Ayers stated that he felt the City should reply to Mrs. Noyes and let her know that the matter had been turned over to DOT and that as far as the zoning of the property and the shopping center, nothing else could be done. Council was in agreement.

**POST OFFICE - PARKING PROBLEMS:** The City Manager stated that he had talked with the new Post Master concerning the problems with parking and the congestion around the entrance to the post office. He stated that she had been very receptive to his comments and that he was to meet with her later and show her the maps and drawings.

Mayor Clark stated that he had received a call from a lady in Clinchfield who was concerned since the post office had removed the mail drops in that area since they had been annexed into the City. He stated that she had requested that a mail drop be placed at the Lowes Shopping Center or around "Greasy Corner". Councilman Stronach stated that he was in favor of requesting the matter through the Post Office.

Mayor Clark stated that in addition, he would like to request that the area behind the Post Office be cleaned up. He stated that he went into the post office from the rear entrance and the parking lot and grassed areas were full of trash. He stated that he would like to request that the area be cleaned up.

**REQUEST - OFFICIAL NAME FOR "FIVE LANE":** The City Manager stated that he had received a request from the Chamber of Commerce to officially name the highway known as the "Five-Lane". The letter stated that the highway could be known as either Hwy 221, Hwy 226 or the "Five-Lane" and when giving directions to persons out of town, he stated that it could be very confusing. The letter stated that the name "Gateway Boulevard" be considered. The City Manager stated that he would prefer "Mountain View Boulevard" since that is the first view of the mountains when you turn on the Five Lane. A discussion followed.

The City Manager stated that Council would have to select a name since the road was inside the City Limits but that the name would have to be cleared by the Fire Department to make sure it was not a duplication.

It was agreed that the City would contact the Chamber of Commerce and ask if they would sponsor a contest and submit the best five names to Council for consideration by the first meeting in March. It was agreed that the name should not be a person's name, living or dead.

**APPOINT ONE MEMBER - RECREATION COMMISSION - RESIGNATION OF DAVID BOBO:** The City Manager presented a letter from Mr. David Bobo to Council. The letter stated that due to other interests and activities, Mr. Bobo would have to resign his



position on the Recreation Commission.

A discussion followed. Council was in agreement to table the matter until the next meeting and to award Mr. Bobo a Certificate of Appreciation for the eleven years service he had served on the Recreation Commission.

**AGREEMENT - DOT - RAILROAD CROSSINGS:** Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to enter into the following agreement with DOT concerning Railroad Crossings and adopt the following Resolution:

**NORTH CAROLINA  
MCDOWELL COUNTY**

**THIS AGREEMENT**, made and entered into this the 16th day of January, 1990, by and between the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the Department, and the CITY OF MARION, a municipal corporation, hereinafter referred to as the Municipality;

**WITNESSETH THAT**

**WHEREAS**, the Federal Highway Administration is authorized and directed by the provisions of Section 401 of Chapter 23 of the United States Code to assist and cooperate with State and local governments to increase highway safety; and

**WHEREAS**, the "Surface Transportation and Uniform Relocation Assistance Act of 1987" provides funds for correcting safety hazards not on the Federal-Aid System as selected or designated by the State and subject to the approval of the U.S. Secretary of Transportation; and

**WHEREAS**, certain railroad-highway grade crossings on the Municipal Street System of the Municipality as indicated on the attached Exhibit "A" and incorporated herein, have been selected for participation in the "Surface Transportation and Uniform Relocation Assistance Act of 1987" in accordance with Federal-Aid standards and requirements; and

**WHEREAS**, 23 USC 405 (f) provides that in any state wherein the state is without legal authority to construct or maintain an agreement for such construction or maintenance with the appropriate local officials of the municipality in which such a project under this system, such state shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the municipality in which such a project is located; and

**WHEREAS**, the Department of Transportation is authorized by the provisions of G.S. 136-18 (12) to carry out the provisions of Federal-Aid highway acts for improvement projects on streets on the Municipal System; and

**WHEREAS**, the Department of Transportation and the Municipality are authorized to enter into agreements for the performance of such work on the Municipal Street System by the provisions of G.S. 136-18 (12), G.S. 136-14.3, and G. S. 136-66.1; and

**WHEREAS**, the Department of Transportation will enter into such agreements as are necessary to improve the protective devices at the crossings selected and to obtain maximum Federal-Aid participation in the cost of the project, but in any event, the Municipality shall be responsible for any and all expense incurred in the planing, design, and installation of the protective devices incurred by the Department of Transportation, but not reimbursed by the Federal Highway Administration.

**NOW THEREFORE**, the Municipality and Department do agree:

1. The Department will arrange to have the necessary plans and detailed estimate prepared by the railroad concerned (or by a consultant for the railroad) and will review such plans with the Municipality before approving them for construction.

2. The Department will supervise, as necessary, the work of installing the protective devices to insure installation is according to plans. In the event substantial changes in plans are found necessary during construction, Department will consult with the Municipality before approving such changes. Department will also make a final inspection of the completed installation to insure it operates according to plans.

3. The Department will obtain all necessary Federal Highway Administration approvals.

4. All sites selected for improvement, all plans for improvements and all contracts with the railroad will be subject to the prior approval of the Municipality.



5. It is understood by the parties hereto that the Federal Highway Administration is to participate in the project costs to the extent of ninety (90) percent, subject to compliance with all applicable federal policy and procedural rules and regulations. Such project costs will include, but not be limited to those incurred by the Department and authorized by the Department in the preparation of plans and estimates, and the costs of materials, installation, and any other incidental items. The Department will invoice the Municipality for all costs not reimbursed by the Federal Highway Administration. The Municipality agrees that, if the Federal Highway Administration should not participate in certain project costs because of noncompliance with Federal and/or State regulations, it will reimburse the Department for such costs regardless of any nonparticipation in the costs by the Federal Highway Administration.

6. The Department will enter into an agreement with the railroad or railroads for the installation of the protective devices. The Department will submit one final itemized invoice to the Municipality for said costs within one year after completion of the work.

7. In the event the Municipality fails for any reason to reimburse the Department for costs as provided hereinabove, the municipality hereby authorizes the Department to apply so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina, Section 136-41.1, as authorized by G.S. 136-41.3.

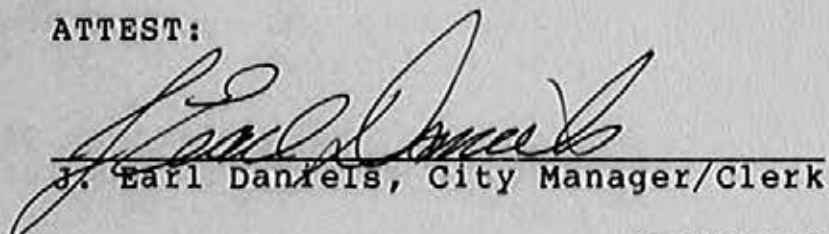
8. It is understood the railroad is responsible for the maintenance of the protective devices and the Municipality shall be responsible for payment to the Railroad fifty (50%) percent of Railroad's costs of maintenance of said devices pursuant to the provisions of G.S. 160A-298(c).

IN WITNESS WHEREOF, this agreement has been executed the day and year heretofore set out on the part of the Department and of the said Municipality by authority duly given, as evidenced by the attached certified copy of resolution, ordinance, or charter provision, as the case may be.

MUNICIPALITY OF MARION

  
Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

#### RESOLUTION - RAILROAD CROSSINGS

WHEREAS, the Department of Transportation, an agency of the State of North Carolina, pursuant to the provisions of G.S. 136-18(12) proposes to contract with the Federal Highway Administration to obtain Federal Aid funds for the improvements in the protective devices at certain highway railway crossings on the Municipal Street System for which the Municipality is responsible; and

WHEREAS, the Municipality will reimburse the Department of Transportation for any and all expense incurred in the planning, Department of Transportation, not reimbursed by the Federal Highway Administration; and

WHEREAS, in order to carry out the aforesaid projects and to promote the public interest and general welfare of the Municipality, it is necessary for the Municipality to enter into a contract with the Department of Transportation to provide for the installation and maintenance of the protective devices at certain highway-railroad crossings on the Municipal Street System.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Mayor and the Clerk of the Municipality of Marion are hereby formally authorized to enter into a contract with the Department of Transportation to obtain Federal-Aid highway funds necessary to improve the protective devices at the said grade crossing, for the Department of Transportation to perform certain work, and the Mayor and Clerk of the Municipality are hereby empowered to sign and execute the required agreement between the Municipality and the Department of Transportation.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk



**INVITATION - NATIONAL GUARD - HOLD NEXT MEETING AT NEW ARMORY FACILITY:** The City Manager stated that a letter had been included with the last agenda package concerning an invitation from the National Guard to hold the first meeting in February at the new armory facility. A short discussion followed.

It was agreed by Council to meet at City Hall at 6:00 P.M. Tuesday, February 6, 1990 and travel to the armory then return to the Council Chambers at 7:00 P.M. to hold the meeting.

**OPENING AND MAINTAINING A SAFETY DEPOSIT BOX:** The City Manager stated that it had been recommended that the City rent a Safety Deposit box to store information such as microfilm and back-up copies of the computer storage. He stated that he would like permission to sign the agreement and allow open access to the box by any one of the following: J. Earl Daniels, City Manager; Kathy McEntire, Bookkeeper; Robert Parker, Personnel Director and Lovina Smith, Zoning Administrator.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to allow the City Manager to open and maintain a Safety Deposit Box. The original document will be filed in the safe.

#### **REPORTS:**

**1. STATE STREET SHOE SHOP:** The City Manager stated that he had been informed by the Fire Chief and Building Inspector that shelves had been installed at the shoe shop on State Street. He stated that at this time there was debris on the floor and the cobbler had been told to clean the building. He stated that he would be back in touch with Council when this had been done.

**2. BRADLEY PROPERTY - CHURCH STREET - CLINCHFIELD:** The City Manager stated that he had been informed by the Fire Chief and Building Inspector that Mr. Bradley had been contacted and advised that a building on his property had been condemned and that it needed to be boarded up or torn down so that persons can not be in or around it. As of this time, neither option had been taken. He stated that the Fire Chief and Building Inspector needed the permission of Council to proceed with the condemnation process. Those members of Council present were in agreement to proceed with the condemnation process.

**3. LEGAL PUBLICATION - NON COMPLIANT INDUSTRIES:** The City Manager stated that a notice had been published in the McDowell News listing the industries which had been non compliant with their discharge permits. He stated that if Council received calls from any industry that their name had been published, it was a requirement from the Division of Environmental Management.

**4. JOINT MEETING - DATE SET:** Councilman Ayers asked if a date for the joint meeting had been set at this time. He was informed that a letter had been sent to the County Manager requesting a date be established for the meeting.

**5. COUNCILMAN CROSS - ACKNOWLEDGE LETTER FROM McDOWELL HOSPITAL - NO SMOKING:** Councilman Cross stated that he felt that the City should respond to the letter from McDowell Hospital concerning their rules and regulations on smoking. The City Manager stated that in the Council chamber, utility offices, secretary's office and his office that no smoking signs had been put up.

Councilman Ayers stated that he did not feel he could support a No Smoking Ordinance for the entire City Hall Building. Councilman Stronach stated that he was against No Smoking Ordinances in public places.

Police Chief Gilsdorf stated that he would like to request that a No Smoking Ordinance not be in effect for the Police Department due to the persons in and out of that office who were under stress. He stated that sometimes a cigarette may help to calm a person's nerves if they were in such a position.

**6. PUBLIC WORKS DIRECTOR - REPORT - HYDRANT INSTALLED AT GEORGIA PACIFIC:** Glen Sherlin, Public Works Director stated that a request from Georgia Pacific had been approved previously for a water tap to serve a fire hydrant at their plant. He stated that the tap had not been completed as of this date, but he had received an additional request that the line be a fire protection line with a siamese connection.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the siamese connection for a fire protection line for Georgia Pacific.

**7. WATER LINE INSTALLATION - STUMPTOWN:** The City Manager stated that the water lines to serve the Stumptown area had been installed but they were having problems with persons tapping onto the new lines. He stated that the only charge for the tap was \$10.00 for a backflow preventer. He stated that at a later date it may become necessary to set a deadline for tapping onto the new lines and turning off the old lines.



Larry Ballard, Utility Line Superintendent stated that a total of one hundred and ten taps had been or would be installed and approximately thirty persons had tapped on.

Mayor Clark asked if there was a problem with persons in that area not being able to afford the switch. Glen Sherlin stated that at this time, they had not experienced that problem but that some persons have gotten more water pressure in areas where persons had tapped on the new line and come off the old line and that the persons did not want to change. He stated that he was sure that some persons in that area may not be able to afford the change but that a deadline needed to be set or the older lines would continue forever.

The City Manager stated that he could work with the Department of Social Services and the Corpening Foundation to help persons who could not afford to change lines.

**8. SPEED LIMITS - HIGHWAY 70 EAST:** Chief Gilsdorf stated that the State had conducted a survey on Highway 70 East from the point known as "Greasy Corner" out to the end of the City Limits. He stated that DOT was of the opinion that a 45 mile per hour zone is appropriate and if the City is in agreement the ordinance would be drafted to the appropriate state officials for adoption.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to have the proposal sent to the State for adoption of the 45 mile per hour speed limit.

**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  
TOWN OF OLD FORT

January 24, 1990

A Joint Meeting of the McDowell County Commissioners, Marion City Council and Old Fort Board of Aldermen was held on Wednesday, January 24, 1990 at 7:00 P.M. in the City Council Chamber, Marion, North Carolina.

**McDOWELL COUNTY COMMISSIONERS PRESENT:** Chairman Jack Wood, Commissioners Glenn Spaulding, J. T. Reel, Annie Epley and Dean Buff.

**MARION CITY COUNCIL MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Steve Little, Angus Stronach, and Joe Tyler.

**OLD FORT BOARD OF ALDERMEN PRESENT:** Mayor Robert Wilson; Aldermen: Chris Yarbrough; Tony Ledbetter and Gerald Nichols.

**OTHERS PRESENT:** Chuck Abernathy, County Manager; J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Scott Hollifield, News Reporter, The McDowell News; Eric Milsaps, News Reporter, The McDowell News; Jim McGinnis, News Reporter, Old Fort Bulletin; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Gary McGill, McGill Associates; Bill Kehler, Marion, N.C.; Larry Brown, Marion, N.C.; Rod Birdsong, Chamber of Commerce; Harold Walker, Chairman of Recreation Commission; Clark Lindley, Recreation Commission; Tony Silver, Recreation Commission; Tommy Boyd, Recreation Commission; and David Vess, Recreation Commission.

County Commissioner Chairman called the County Commissioners back into session from the adjournment at previous session at 7:09 P.M.

Mayor A. Everette Clark called the meeting to order and welcomed the guests present to the meeting.

City Manager J. Earl Daniels stated that the items on the Agenda were as follows:



1. Water and Sewer Comprehensive Study - Presentation by McGill Associates.
2. Recreation Commission - Report on Activities. He noted that this item may require an Executive Session to discuss personnel and a possible legal matter.

Commission Chairman Wood stated that the Commissioners met at 6:45 prior to coming to the Council Chambers and had a modification for a Resolution tabled until later in the evening.

County Manager Abernathy stated that he had been contacted concerning a joint Resolution of the three governing boards concerning Community Development Block Grants and the plans to ask that more funds be awarded to Western North Carolina. He stated that he did not have a Resolution for this matter prepared. A short discussion followed. It was decided that each governing board adopt a Resolution concerning Community Development Block Grants.

Mayor Robert Wilson stated that Old Fort had applied numerous times for tourism grants through the Department of Transportation, but had never been considered. He stated that the Chamber of Commerce had also applied and had been turned down. Mayor Wilson stated that the funds were awarded to the Eastern part of the State and he felt that if the governing boards could voice their opinion, it may help money to be awarded in this area.

Mr. Gary McGill of McGill Associates stated that he would present a brief summary of the Comprehensive Water and Sewer Study prepared by his firm for the County, The City of Marion and the Town of Old Fort. He stated that his firm had incorporated the systems now in operation and projected needs for the next twenty years.

Mr. McGill stated that in looking at the present water system in relation to densely populated areas not serviced at this time with the use of hydraulic models, a proposed plan had been developed. He stated that the option with the least cost would be to interconnect the existing water systems and then extend water lines to various parts of the county. He stated that this was not necessarily the best option, but the least costly option.

With recommendations for sewer expansion, he stated that the study suggested that these expansions should be handled as problems arise. He stated that the areas under consideration could be prioritized and worked on as the need arises. He stated that if the outline of the study was followed, when steps were taken for correction of problems in this manner, the lines would not have to be redone for future expansions.

Mr. McGill stated that the Old Fort system had no extreme weakness however, he would like to see a control valve installed around the Red Town road area to allow the system to be used at a greater advantage. He stated that at this time, the two water storage tanks in the system were not being used to distribute to the system evenly.

In the area of sewer expansion, he stated that there were no problems and that the ongoing project for Highway 70 would take care of existing problems.

Mr. McGill stated that the Marion sewer system had no critical problems at this time. He stated that the study had suggested that some small lines be replaced as needed, to upgrade the Catawba River Plant and eventually eliminate the Clinchfield Plant.

Mr. McGill stated that the Marion water system had several internal problems which could be solved by the installation of six inch water lines. He stated that in addition, he would recommend that to prevent future problems, eliminating dead end lines, replacement of two and four inch lines and then eventually replacement of twelve inch lines with sixteen and twenty four inch lines which would allow the expansion out into the county.

Mr. McGill stated that his basic recommendations were as follows:

1. Establish a commitment whereby existing units of government cooperate with each other and coordinate common goals into efforts toward the prudent provision of water and sewer service to the citizens.

2. Eliminate from further consideration the County separately entering into the water and sewer services area from the standpoint of ownership, operation and maintenance. The citizens of the County would most probably pay considerably more in cost of service due to duplication and inefficiency resulting in considerably higher utility bills.

3. Eliminate from further consideration the formation of a Water and Sewer Authority, a Metropolitan Water District or a Metropolitan Sewer District. These managerial arrangements are more successful in the more urban areas for obvious reasons. While the growth projections for the study area are reasonable, they do not show McDowell County becoming densely populated enough in the twenty (20) year planning period to make these practical.



4. From a continuing expanded Management Study Committee with the specific goal of arriving at an acceptable water and sewer management structure with implementation within three (3) years. This committee could be composed of two (2) representative each from the parties to this study with a seventh member and Chairman mutually appointed by the other six (6) members.

5. Direct the newly formed committee to focus on a Joint Management Agency or long term Interlocal Agreement; or County Service Districts or Sanitary Districts; or on the Town of Old Fort and the City of Marion as the primary purveyor of water and sewer service to the citizens.

Mayor Wilson stated that he had thought for a long time that interconnection of the two water systems would be important for future industrial growth.

Chairman Wood stated that he would like to know how long the "window of time" would be for the immediate needs. Mr. McGill stated that management aspects of the future should be discussed at this time since there was no crisis situation. He stated that if a crisis did develop, that may be a beginning point for the implementation of the plan.

Mayor Clark stated that several points needed to be answered before the system could be upgraded. Mr. McGill stated that the process would take time and that before any improvements were made, it would be best to know if the plan was to be followed.

Councilman Little stated that the cost of a twenty four inch line from the reservoir to Main Street and a sixteen inch line from Logan to the Five Lane would cost approximately \$409,000.00 and the cost for a twelve inch line in the same area would be approximately \$196,000.00. He stated that was a significant difference and depended if the study would be implemented to allow expansion through the county or if the system would be improved to take care of Marion's system only.

Chairman Wood stated that he would like to know a point in time where as a group collectively, a decision needed to be made to as to a commitment to the study or to abort the study. Mayor Clark stated that it was the feeling of the Marion City Council to move forward with solving internal problems and it would not be long until a commitment could be made.

Councilman Little stated that he would like to have a decision of some type by July 1991.

Chairman Wood stated that he kept hearing the 1992 date and asked if that would be the last point for consideration. Mr. McGill stated that was the date estimated as the time to start implementing the plan since it would take some time to accomplish what had been outlined.

Councilman Ayers stated that water and sewer expansions had been talked about for the last fifteen or twenty years and he would like to move ahead with extensions or to agree not to proceed with the project.

Mayor Clark stated that he felt the City was ready to proceed with expansions in the County, but if the other boards did not agree, he would like to begin work to take care of the present system.

Councilman Little stated that he had the feeling that everyone would like to see the county-wide expansion, however, it may not be feasible from a financial standpoint.

City Manager Daniels stated that at this time, the City has already taken care of several internal problems in-house and by July 1, 1990 and June 30, 1991, the other internal problems could be solved in-house. He stated that at that time, the City would be at the point where they would need to know whether or not to replace lines to enhance the City system or to begin preparations for implementation of the county-wide plan. Mr. McGill stated that the areas presenting potential problems could be prioritized and that the City could work with their present obligations while looking at the entire picture. He stated that the problem was not the size of the lines, but being able to get the water to the lines for service.

Councilman Tyler stated that he felt a committee should be put into place and that even if the project had to be done in phases, it would help the situation.

Councilman Stronach asked if any consideration had been given to the water line coming down Hillcrest from the Reservoir to the Five Lane. Mr. McGill stated that at this time, detailed designs had not been completed and that would definitely be a possibility.

Commissioner Spaulding asked if the present system could accept the areas of Nebo, Glenwood and Providence. Mr. McGill stated that the system at this time would



not accept these areas because any additions would enhance the problem areas. He stated that the installation of the twenty four inch line would cause immediate problems. Commissioner Spaulding stated that the twenty four and sixteen inch line combination would help the system. Mr. McGill stated that it would solve problems in many areas.

Councilman Ayers stated that the large lines would be the backbone of the system. Commissioner Spaulding stated that the lines must be large enough to support whatever was done.

City Manager Daniels stated that the best example of what additions to the present system could do would be as follows: He stated that a twelve inch line was installed to serve the prison unit and it was fed by a six inch line. He stated that it took five - six inch lines to feed one twelve inch line. He stated that the Fire Department tapped onto the system below McDowell Tech on this line and began pumping water, he stated that while they had plenty of water, the persons on the line in East Marion were completely depleted of water.

Mayor Clark stated that a committee had been suggested. Commissioners Reel and Spaulding stated that they felt that a committee should be developed and discuss the study with minutes taken and report back to the respective boards.

Commissioner Spaulding asked if Sanitary Districts could be set up for such agencies as the Rescue Squad, EMS and Fire Departments. Mr. McGill stated that it could be done.

City Manager Daniels stated that he would like to mention one point. He stated that the plan would depend on the demands to the system. He stated he was concerned that money would be spent to extend the system but there may not be connections as anticipated. He stated that years ago, the persons on the Five Lane were warned that a crisis situation would occur if a sewer system was not installed. He stated that they would not listen and the crisis did occur.

Commissioner Spaulding stated that situations like this could be handled by the Sanitary Districts where the citizens vote on the situation themselves and would be in control.

Councilman Stronach asked if the improvements in-house were helping the system now. Mr. McGill stated that they were but that you could not put a line in and hope for the best. He stated that you needed to let the need dictate the project.

Councilman Ayers stated that he would like to propose that the Committee to study the Water and Sewer System have eight members, two representatives from each board and then a representative each from the Chamber of Commerce and the Committee of 100.

Mayor Wilson stated that he felt that the "hot spots" should be considered first and then ask the people in the areas of proposed expansion if they would like to tap on the system before it was done.

Commissioner Spaulding stated that the Sanitary District would allow the areas to sell revenue bonds, and that they would act as a self governing entity. Mr. McGill stated that such areas had been identified in the study if that would be the route the governing bodies chose.

Councilman Little stated that he would like to make a joint motion that a Committee to study the Water and Sewer System be appointed as follows: two members of the City of Marion Utility Committee; two members of the County Commissioners; one representative from the Chamber of Commerce and one representative from the Committee of 100 to be appointed by the respective organizations and for the City Manager, County Manager and Mayor of Old Fort serve as "Ex-Officio" members.

The motion was seconded by Councilman Ayers.

Chairman Wood stated that he would like for each board to appoint the members from the Chamber, Committee of 100 and then Old Fort could appoint whomever to serve for their additional member. This would allow each board to appoint three members in addition to the "Ex-Officio" members. Councilman Little amended his motion to include Chairman Wood's suggestion. Councilman Ayers amended the second.

Chairman Wood made the motion to appoint three members from each governing body to a Water and Sewer Committee with the members including two members from each governing body, one representative from the Chamber of Commerce and one representative from the Committee of 100, one representative from the Old Fort Chamber of Commerce and for the Mayor of Old Fort, the County Manager and City Manager to serve as "Ex-Officio" members. The motion was seconded by Commissioner Spaulding.

The vote was unanimous for the County Commissioners, Marion City Council and the members of the Old Fort Board of Aldermen present.

Mayor Clark stated that he felt that the Committee should elect a chairman from



among the members appointed to serve the committee. Everyone was in agreement

The first meeting of the Water and Sewer Committee was set for Monday, February 12, 1990 at 3:00 P.M. in the County Commissioner's Board Room.

City Manager Daniels stated that the second topic on the Agenda was a discussion of the Recreation Commission. He stated that members of the Recreation Commission had been invited to attend the meeting and report on the activities of the Commission and answer specific questions which could require an Executive Session concerning personnel and a possible legal matter. He stated that following the report, he would like to suggest that the Boards enter into an Executive Session and to allow the Elected Officials, the members of the Recreation Commission present and the Secretary to remain in the room.

Mr. Harold Walker, Chairman of the Recreation Commission stated that the Commission consisted of a nine member board with three representatives appointed by each governing body. He stated that the Commission employed four full-time employees, the Recreation Director, a Secretary, an Assistant Director and a Programs Director.

Mr. Walker stated that the Commission maintained several parks, a gymnasium in Marion, and swimming pools in Marion and Old Fort. He stated that they also used the complex at Maple Leaf Lanes for some of the games. He stated that in this instance, Mr. Kehler provided the fields at no charge but received money from the concessions. He stated that during the tournaments when a gate was charged, the Commission received those proceeds.

Mr. Walker stated that Mr. Kehler maintained the four fields at his complex and provided them for use by the Commission at no charge. He stated that there had been some confusion during last season concerning scheduling of the games. He stated that some of the Coaches had requested Kehler's fields since they were required to prepare the fields prior to their team playing. He stated that in addition, the children liked to play "under the lights" of Kehler's field.

Chairman Wood asked if the Commission received the gate at the Basketball games. Mr. Walker stated that the gate charged for Basketball games was for the Youth Activities Committees in the different areas and that they kept proceeds.

Councilman Little asked how many Community Service Volunteers the Commission used and if that program was of benefit. Mr. Walker stated that they had not received as many workers in the past the last year but the Commission did benefit from their work.

Councilman Ayers stated that he had been asked why persons using the gymnasium had to pay \$1.00 to play basketball. Mr. Walker stated that he did not know of any policy to charge for use of the gym other than other organizations using the facility.

Alderman Ledbetter stated that he did know that there was a fee if a group used the gymnasium in Old Fort. Mr. Walker stated that would be set by the school system.

City Manager Daniels asked if someone was on call for the Commission at all times. Mr. Walker stated that there was but he may not be at the complex all the time.

Councilman Tyler asked if something could be done to the seating in the gym. Mr. Walker stated that Mr. Tucci planned to remove the seats and have bleachers.

Scott Hollifield of the McDowell News stated that persons from the newspaper and some of their friends had reserved the gym for a specific time and were charged \$10.00 per hour. He stated that they asked each person to chip in to pay the fee. He stated that through the schools, the fee was \$20.00 per hour. Mr. Walker stated that this fee was through the Commission and the fee covered the cost of the electricity and other costs to allow the gym to be open.

Commissioner Spaulding asked if the gym was reserved could anyone else use the facility. Mr. Walker told him that only the persons reserving the facility could use it at that specific time.

County Manager Abernathy stated that his Board felt that the Youth games should be played in the various communities. Mr. Walker stated that there would be more scheduling of the games in the communities this year to help with the raising of funds for the teams. He stated that Old Fort had requested that no home games be played at Kehler's.

Mr. Walker was asked if the Industrial Leagues were played at Kehler's. He stated that all adult games were played there.

Mr. Kehler stated that he had provided his fields free of charge for their use and that some coaches requested that the games be played there. He stated that there was some concern of the communities losing the concessions and that some



community fields had no bathroom facilities. Mr. Walker stated that this year they hoped to have the youth games in the communities.

Mayor Clark stated that the City had a problem and wanted help with trying to keep the field and area around the field in shape. He stated that due to the area it was located, this field should be kept very clean. Mr. Walker stated that he did not see this area last season. He stated that Ms. Kaylor had mentioned that the bank needed to be cleaned at one of their meetings. He stated that when problems of this nature occurred to please contact the board so that it could be taken care of. Mayor Clark stated that he and the City Manager had met with the Chairman of the Commission last year and advised her of the problems.

Councilman Cross asked if they had regular meetings of the Commission. Mr. Walker stated that they met on the third Monday of each month.

Councilman Ayers stated that he had been involved with the Recreation Commission for a number of years as a coach, a parent and spectator. He stated that he felt that the decision where to play the games should be made by the Commission rather than the Coaches. He stated that with the consolidation of the schools, the only thing left in the communities are the recreation programs. He stated that this did not need to be consolidated. He stated that the City was concerned about the facility in town, especially the parking lot and the banks. He stated that the Commission was missing the upkeep and the Commission could not afford to neglect their responsibilities, even with a tight budget as they operated on.

Mr. Walker stated that at the last meeting, questions were raised concerning scheduling of the games and that Mr. Tucci had been instructed to inspect the parks and come back with recommendations.

City Manager Daniels stated that he felt that the Commission needed to establish a policy for the collection of the fees of the gate or to reserve the various facilities. He stated that the report should be furnished to each governing board.

Mayor Wilson stated that he felt that the taxpayer's money should be put back into the community parks. He stated that a lot of money had been spent at the Old Fort Complex and that it was not being used as it should. He stated that the community was concerned about losing the commissions from the games and he had received numerous complaints.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, the City Council voted unanimously to go into Executive Session.

Chairman Wood asked that the minutes reflect that the Commissioners were not in Executive Session but would be present by invitation.

Mayor Wilson asked that the minutes reflect that the Board of Aldermen present were not in Executive Session but would be present by invitation.

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

City Manager Daniels stated that he would like to set a regular meeting date for the Joint Meetings. A short discussion followed. It was decided that the boards should meet on the first Wednesday of the first month in each quarter with the locations rotating. The next meeting was set for April 4, 1990 at 7:00 P.M. at the Old Fort Town Hall.

Upon a motion by Councilman Little, seconded by Councilman Tyler, the Marion City Council and members of the Old Fort Board of Aldermen present voted unanimously to adjourn.

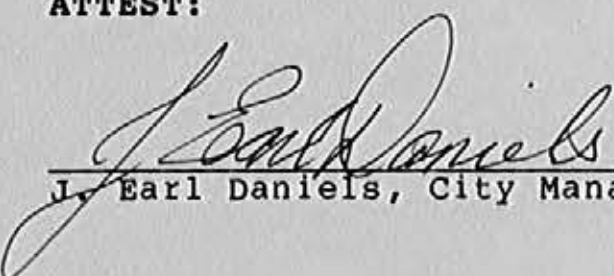
Chairman Wood stated that the Commissioners needed to take care of the Resolution modification tabled earlier in the meeting.

Upon a motion by Commissioner Spaulding, seconded by Commissioner Reel, the Commissioners voted unanimously to postpone the item until the next meeting.

Upon a motion by Commissioner Epley, seconded by Commissioner Buff, the Commissioners 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 6, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, February 6, 1990 at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator Water Filtration Plant; Bill Gilsdorf, Chief of Police; and Lydia Carrington, News Reporter, The McDowell News.

GUEST PRESENT: Mr. Carroll Hughes, Spaceplan, Asheville, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, the Council voted unanimously to approve the minutes of the January 16, 1990 meeting.

GARBAGE DISPOSAL SERVICE - REQUEST FOR ADDITIONAL PICK-UPS: The City Manager informed the Council that a request for an additional garbage pick-up had been received from both Sears and Gouge Glass. Both businesses are located on the 5-Lane and were in business at the time of annexation.

He explained that one additional pick-up as requested would double the cost paid by the City for the service provided to each business. The business could double the size of their present container and continue having one pick-up per week. The increased cost of pick-up for the larger container would be half of the increase cost for two pick-ups. The business would be responsible for the increased cost in the rent of their container.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to authorize the City Manager to contact each business and inform them that they should have their container size doubled. The City will continue to provide one pick-up per week. The City Manager is to advise Garbage Disposal Service that any future request for additional pick-ups will be handled in the same manner.

MARTHA BAILEY - REPLACEMENT OF PLANTS: The City Manager presented a request from Ms. Martha Bailey for the replacement of azaleas and Japanese Holly bushes removed from her property located at 630 Hwy. 70 West during the construction of the sewer line. Discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, the Council voted unanimously to replace two Japanese Holly bushes and three azaleas on property owned by Ms. Martha Bailey located at 630 Hwy. 70 West.

TAX REFUND - DARRELL FORD MERCURY, INC: The City Manager presented a memo to Council from Ms. Claudia Shehan, Tax Collector, which stated that payment in the amount of \$4,418.63 had been made by Darrell Ford Mercury, Inc. for 1989 taxes.

It was later discovered that \$192.93 was paid on a 1989 discovery tax bill for four (4) rental vehicles which was listed twice.

The valuation of real property as listed was incorrect. It included a valuation of \$10,300.00 for 1.1 acre sold to Kentucky Fried Chicken in 1989. The overpayment in taxes was \$6.08.

Upon a motion by Councilman Cross, seconded by Councilman Little, the Council voted unanimously to approve a refund in the amount of \$199.01 to Darrell Ford Mercury, Inc.

WATER REFUND - INEZ POTEAT: The City Manager advised Council that due to a clerical error, Ms. Inez Poteat was overbilled for water charges in the amount of \$55.38.

Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted to approve a refund in the amount of \$55.38 to Ms. Inez Poteat.

RECREATION COMMISSION - APPOINT MEMBER: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted to table the appointment of a member to the Recreation Commission pending the resolution of problems discussed at the joint meeting of the Old Fort Board of Aldermen, Marion City Council and the County Commissioners. Those members of the Recreation Commission representing the City of Marion should attend the City Council on a quarterly basis to report on the activities of the Commission. A copy of the minutes of the meetings of the Recreation Commission should be furnished to the Marion City Council.



COMMITTEE OF 100 - LETTER TO N.C. UTILITIES COMMISSION:

Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously authorize the City Manager to submit a letter to the North Carolina Utilities Commission expressing a need for natural gas in McDowell County.

200,000 GALLON METAL WATER TANK - AUTHORIZATION TO SELL: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, the Council voted to declare the 200,000 metal water tank located on Summitt Street to be surplus equipment and authorized the City Manager to advertise it for sale. The tank will be sold "as is" and the purchaser will remove the tank at their expenses.

1989-90 BUDGET ORDINANCE AMENDMENT: Upon a motion by Councilman Little, seconded by Councilman Cross, the Council voted unanimously to adopt the following amendment:

1989-90 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 1989-90 as adopted by the City Council on the 20th day of June, 1989 is hereby amended as follows:

Section 1. General Fund Revenues, Account Number 10 399-00, Surplus Appropriated is increased from \$356,341 to \$381,341 by a supplemental appropriation from unappropriated surplus in the amount of \$25,000.

Section 2. General Fund Expenditures, Administration Department, Capital Outlay, Account Number 10-420-74 is increased from \$20,000 to \$45,000, an increase of \$25,000 to provide for the purchase of property located on the East side of Main Street belonging to Ms. Tomlinson.

Section 3. 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 6th day of February, 1990.

ATTEST:   
J. Earl Daniels, City Manager/Clerk

  
A. Everette Clark, Mayor

Ordinance No. O-90-02-06-01

SPACEPLAN - RECOMMENDATIONS FOR CITY HALL FACILITY: The City Manager presented Council with a proposal from Spaceplan for developing recommendations for future facilities including City Hall, the fire department, and the police department.

Mr. Carroll Hughes, Principal, of Spaceplan appeared before the Council outlining the contents of the proposal. He stated that the final report would be a recommendation on what options the City would have and which would be most appropriate for the City to follow. The final recommendations would include projected cost estimates.

Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to accept the proposal as presented and enter into a contract with Spaceplan.

ORDINANCE - UNLAWFUL TO PLACE ITEMS ON WATER METERS: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to adopt the following ordinance:

ORDINANCE  
PROHIBITING THE PLACEMENT OF ITEMS  
ON TOP OF WATER METER BOXES

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

Section 1. It shall be unlawful for any person to park any vehicle or place any item on top of any watermeter box

Section 2. Upon verbal or written notice to the owner and/or occupant of any premises, any vehicle parked over or any item placed on top of a city water meter box must be removed within twenty-four (24) hours from the time of notification.



Section 3. Any person who violates or fails to comply with this ordinance, shall, upon conviction, be guilty of a misdemeanor and shall be fined not exceeding fifty (50) dollars or imprisoned not exceeding thirty (30) days. Each day that a violation continues to exist shall be considered to be a separate offense.

Adopted this the 6th day of February 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-90-02-06-02

COMMUNITY DEVELOPMENT BLOCK GRANT - LETTER REQUESTING CHANGE IN DISTRIBUTION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted unanimously to authorize the City Manager to submit a letter to James T. Broyhill, Secretary, Department of Economic and Community Development supporting the Proposed Community Development Block Grant Program Modifications to Promote A More Geographic Distribution of Community Revitalization Grants as submitted by the Western Regional Council of Governments.

REPORT OF TAX COLLECTOR - 1989 TAXES: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted unanimously to accept the following report of the Tax Collector of unpaid 1989 real estate taxes. The report can be found filed with the legal documents in the safe.

#### REPORTS:

(1) LANDSCAPING PROJECTS: The City Manager presented proposals for landscaping the entrances of the Oak Grove Cemetery and Marion Community Building. Discussion followed.

The City Manager was authorized to go ahead with the plans for the Community Building. A decision on landscaping plans for the entrance to Oak Grove Cemetery was tabled.

(2) NATION LEAGUE OF CITIES: Councilman Little stated that it was his opinion that the City of Marion would benefit more by being a member of the National League of Cities rather than the National Association of Towns and Townships. Discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to rejoin the National League of Cities and to allow their membership in the National Association of Towns and Townships to expire.

(3) REINSTATEMENT - DAVIS AUTOMOTIVE WRECKER SERVICE: Chief Gilsdorf advised the Council that Davis Automotive Wrecker Service has complied with City ordinance concerning the parking of vehicles in No Parking Zones.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to reinstate Davis Automotive Wrecker Service to the rotation list as maintain by the Marion Police Department. Any other wrecker services that should be suspended in the future, may be reinstated upon compliance with City ordinances.

(4) COMMUNITY POLICING: Police Chief Gilsdorf presented a proposed policy to Council allowing private citizens to assist in the enforcement of City parking ordinances.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to approve "Community Policing Policy" as presented by Chief Gilsdorf.

(5) PARKING VIOLATION TICKETS: Upon a motion by Councilman Little, seconded by Councilman Tyler, the Council voted unanimously to approve employees and reserved officers of the Marion Police Department writing parking violation tickets.


(6) REPAIRS - 1972 HOWLE PUMPER TRUCK: The City Manager presented the Council with a quote of \$8,623.00 for replacement of the tank on the 1972 Howle Pumper. The quote was submitted by the company who originally built the tank and will give



a 15 year warranty on the replacement tank. Discussion continued.

Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to have the Fire Chief contact other businesses capable of building and installing a new tank for a price quote.

**ADJOURNMENT:** Upon a motion by Councilman Ayers, seconded by Councilman Tyler, the 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

February 20, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, February 20, 1990 at 7:00 P.M. in the City Council Chamber.

**BOARD MEMBERS PRESENT:** Mayor A. Everett Clark, Councilmen Robert Ayers, Angus Stronach, Joe Tyler and John Cross. Councilman Steve Little arrived at 8:20 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; and Lydia Carrington, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. Robin Hood, Chairman, City of Marion Planning and Zoning Board; Dr. Gresham Orrison; Dr. & Mrs. DeFerrie; and Mrs. Bea Erskine, McDowell County Senior Center.

**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 24, and February 6, 1990 meetings.

**SENIOR CENTER - REQUEST TO HANG BANNER ON MAIN STREET:** Mrs. Bea Erskine appeared before Council and requested that they be given permission to hang a banner over Main Street from April 9 - May 19, 1990 as advertisement for the annual Senior Games. Mrs. Erskine also stated that she would like for the City to help with placement of the banner.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to allow the Senior Center to hang a banner over Main Street from April 9 - May 19, 1990 and to have the City forces hang the banner.

Mrs. Erskine stated that a new banner had to be purchased this year and that if the City could help with a donation, it would be appreciated. A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council voted unanimously to make a \$100.00 donation to the Senior Center toward the purchase of a banner.

**PUBLIC HEARING - AMENDMENT TO CITY OF MARION ZONING ORDINANCE:** The City Manager opened a Public Hearing for the purpose of amending the City of Marion Zoning Ordinance.

Mr. Robin Hood, Chairman of the Planning/Zoning Board appeared before Council and stated that the Planning/Zoning Board had met and unanimously agreed to recommend amending the Zoning Ordinance, Article VIII. Use Requirements by District, Section 802, General Residential District, 802.3 Special Exceptions to include the following:

5. Accountant and Attorney Office

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of



Council present voted unanimously to approve the amendment to the City of Marion Zoning Ordinance Article VIII. Use Requirements by District, Section 802, General Residential District, 802.3 Special Exceptions to include the following:

5. Accountant and Attorney Office

There being no further business, the City Manager closed the Public Hearing.

**WAGON MASTERS - REQUEST TO USE BASEMENT OF COMMUNITY BUILDING:** The City Manager presented a request from the Wagon Masters to use the basement of the Community Building for their dance classes. He stated that they did not charge a fee for the classes so it would not be in conflict with the rules of the building.

Councilman Stronach stated that he would like to turn the matter over to the Community Building Committee.

The City Manager stated that there was a slight problem with heating the basement, but that if dances and other athletic activities were held in the basement it should be okay.

Councilman Ayers stated that he felt that the Wagon Masters could use the building but that the Community Building Committee should look at a rent charge and come back to Council concerning a recommendation. Those members of Council present agreed.

**LATE LISTING CHARGE - REQUEST FOR REFUND - MR. FRANK GOLDSMITH JR.:** The City Manager presented a letter to Council from Mr. Frank Goldsmith requesting a waiver in the amount of \$46.18 for a late listing charge for his property which was annexed into the City on June 30, 1989.

The City Manager stated that he had been in contact with the League of Municipalities and the Institute of Government concerning the matter. He stated that both agencies agreed that since the property was not in the City Limits at the time when the property had to be listed, Council could authorize waivers or refunds for the penalty.

The City Manager stated that he would also like to request that the Tax Collector be allowed to waive or refund these amounts if less than \$100.00 in situations where the property was not inside the City Limits at the time of listing with a report to Council.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to authorize the waiver to Mr. Frank Goldsmith in the amount of \$46.18 and to authorize the Tax Collector to waive refund late listing penalties less than \$100.00 if the late listing fee is on property which was not inside the City Limits at the time of listing with a report to Council.

**MCDOWELL NEWS - REQUEST TO PURCHASE ADVERTISEMENT FOR SPECIAL MEETING:** The City Manager presented a layout from the McDowell News and stated that they would like for the City to purchase an advertisement for their Special Edition. He stated that the prices were as follows: 1. Full Page Advertisement - \$645.00; 2. 3/4 page advertisement - \$483.75; 3. 1/2 page advertisement - \$322.50; and 4. 1/4 page advertisement - \$161.25. A short discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to purchase a on half page advertisement from the McDowell News in the amount of \$322.50 with the City Manager choosing the type advertisement.

**FORMAL APPOINTMENT OF LARRY BROWN TO THE UTILITY COMMITTEE:** The City Manager stated that the Chamber of Commerce wished for Mr. Larry Brown to be their representative for the Utility Committee. He stated that Council needed to officially appoint Mr. Brown to the committee.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to appoint Mr. Larry Brown to the Utility Committee as the representative for the Chamber of Commerce.

**RECREATION COMMISSION - APPOINTMENT OF ONE MEMBER TO FILL UNEXPIRED TERM OF DAVID BOBO:** The City Manager stated that this matter had been tabled at the February 6, 1990 meeting pending response to questions asked of the Commission earlier. He stated that he has not received a response from the Commission.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to table the matter until a response had been received from the Recreation Commission.

The City Manager stated that the term of Mr. Bill Causby on the Recreation Commission had expired on September 1, 1989. He stated that no documentation could be found concerning his re-appointment.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members



of Council present voted unanimously to re-appoint Mr. Bill Causby to the Recreation Commission retroactively. Said term to expire September 1, 1992.

**U.S. FOREST SERVICE - REQUEST TO PLACE ANTENNA:** The City Manager presented a letter from the U. S. Forest Service requesting permission to place a solar-activated microwave repeater on a forty foot pole on City property at the reservoir.

The City Manager stated that he had asked the opinions of both the Chief Operator of the Water Filter Plant and the Public Works Director. He stated that both men agreed that the pole and repeater may cause problems for future expansion of the facility and for access to the water lines already in place. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to allow the U.S. Forest Service to place a forty foot pole with a solar-operated microwave repeater on the City reservoir property under the following conditions: 1. That City personnel pick the location for the pole and repeater; 2. That if asked to move the pole and repeater, that the Forest Service would do so at their expense; 3. That no overground wires be run in the area.

**BID TABULATIONS - PURCHASE OF TWO ONE HALF TON PICK-UP TRUCKS:** The City Manager stated that a bid opening had been held on Monday, February 19, 1990 at 2:00 P.M. in the City Council Chamber for the purchase of two one half ton pick-up trucks.

The following bids were received:

Ken Wilson Ford Canton, NC	5% Bid Bond	\$10,780.00 each 22,206.80 total
B & J Chevrolet Marion, NC	Personal Ck.	\$10,908.22 each 22,470.93 total
Darrell Ford Marion, NC	Cert Ck.	\$10,433.75 each 21,497.64 total

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to accept the low bid of Darrell Ford Mercury in the amount of \$21,497.64 total.

**POLICE DEPARTMENT - PERSONNEL CHANGES:** The Police Chief stated that the Police Committee had not been able to meet to discuss the proposed changes and he would like to wait until a later date to discuss the matter.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to table the matter until the next meeting.

**TREE BOARD - REQUEST FOR FUNDS:** The City Manager presented a memorandum from Mr. Robert Parker, Personnel Director on behalf of the Tree Board requesting \$35.00 for awards to students at Marion Elementary School for their participation in the Arbor Day Celebration.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to donate \$35.00 to the Tree Board for use for prizes for the Arbor Day Celebration.

**RESOLUTION - AUTHORIZING ADDITIONAL PERSON TO SIGN CHECKS:** The City Manager stated that he would like to recommend that Mrs. LuAnn Ellis be authorized to sign checks. He stated that Mrs. Ellis filled in for the bookkeeper in her absence and he was appointing Mrs. Ellis Assistant Bookkeeper.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to authorize Mrs. Ellis to sign checks on City Accounts.

**NATIONAL LEAGUE OF CITIES - CONFERENCE REGISTRATION:** The City Manager stated that he would like to know if anyone was interested in attending the National League of Cities Annual Conference. A short discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to allow the City Manager to attend the conference if he wanted to.

**APPOINTMENTS - GRIEVANCE COMMITTEE:** The City Manager stated that five members needed to be appointed to the City of Marion Grievance Committee. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to appoint Mr. Buck Byrd, Chief Operator Filter Plant; Mr. Will Twitty, Sanitation Superintendent; Mr. Arthur Edwards, Fire



Chief; Mr. Lee Dillingham, Waste Treatment Plant Operator and Mrs. Debbie Warren Police Department to the Grievance Committee Said terms expire December 31, 1990

**NAMES FOR THE FIVE LANE:** The City Manager presented the names for the Five-Lane from the contest sponsored by the Chamber of Commerce to Council as follows: (Names are grouped by category).

1. Blue Ridge Boulevard; Blue Ridge Highway
2. Mountain View; Mountain View Boulevard; Mountain View Lane; Mountain View Drive; Mountain View Highway
3. Titan Boulevard; Titan Drive; Titan Highway
4. Mountain Glory Boulevard; Mountain Glory Highway
5. Foothills Highway; Foothills Boulevard
6. North Main Street

**REPORTS:**

**1. BUILDING PROGRAM - MEETING WITH ARCHITECT:** The City Manager stated that representatives from Spaceplan had met with the Fire Chief; Police Chief; City Manager and individual Council members. He stated that a volunteer fireman wished to speak with the representative and asked if there were any objections. There were no objections to a volunteer fireman talking with the representative.

**2. COUNCILMAN STRONACH - COMMENTS:** Councilman Stronach stated that he had been asked why there were no handicapped parking spaces on Main Street. He stated that the one parking space in the parking lot at the restrooms was often times too far to walk.

Councilman Little stated that there would be no way that a handicapped person could exit from the driver's side of a vehicle on Main Street. He stated that it would just be too close. A short discussion followed.

The Police Chief stated that handicapped persons could use the spaces marked "Loading Zone" while letting handicapped persons out or into vehicles so long as they did not leave their parked vehicle there longer than necessary to load or unload.

Council agreed that "Loading Zones" would be a good place to allow handicapped persons to get in and out of vehicles. The Chief of Police stated that he would prepare a press release with regards to this matter.

**3. COUNCILMAN STRONACH - COMMENTS:** Councilman Stronach stated that he had received a call from a resident on Forest Road requesting a street light. The City Manager stated that he had not received documentation requesting that the road be dedicated to the City for maintenance and until this was done, a light should not be put in on a private road. The City Manager was directed to contact the attorney concerning the matter.

**4. COUNCILMAN AYERS - COMMENTS:** Councilman Ayers asked if there was anything that could be done about the potholes and terrible condition of the pavement on South Main Street.

The City Manager stated that he had met with Mr. Tony Moore and a DOT representative earlier in the week and that was a concern discussed at the meeting. The City Manager was directed to write a letter to Mr. Moore so that the concerns would be in writing.

**5. DOT - PROJECTS PENDING:** The City Manager stated that DOT wished for the City to take over several streets for City maintenance. He stated that they had made a list of improvements for the DOT to make before the streets would be acceptable to the City.


**6. LIGHT POLES - BRICK WORK:** The City Manager stated that it would be necessary to brick around the light poles on Main Street. He stated that it could be done in a octagon or square shape with the receptacles inside or outside the brick work. A short discussion followed. It was agreed that the work would be done at a later date when all the poles were put in.

**ADJOURNMENT:** Upon a motion by Councilman Cross, 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

March 6, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, March 6, 1990 at 7:00 P.M. in the City Council Chamber

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Trisha Beam, Environmental Specialist; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Lydia Carrington, News Reporter, The McDowell News; and David Setzer, The McDowell News.

**GUESTS PRESENT:** Mr. Floyd Brooks, Marion, NC; Mr. Fred Williams, Duke Power Company; Mr. Carroll Hughes, Spaceplan Architects; Mr. John Ledgerton, Spaceplan Architects; Mr. Jim Neal, Marion Fire Department; Mr. Brently Cuthbertson, Boy Scout Troop #210; Mr. Chandler Arnold, Boy Scout Troop #210; Mr. J. D. Williams, Boy Scout Troop #210; Mr. Perry Clayton, Boy Scout Troop #210; Mr. Sammy Duncan, Boy Scout Troop #210; Mr. Jacob Gorecki, Boy Scout Troop #210; Mr. Justin Lerch, Boy Scout Troop #210; Mr. Tom Eckenrod, Boy Scout Troop #210; Mr. Evey Cuthbertson, Boy Scout Troop #210; Mr. Billy Whitcomb, Boy Scout Troop #210; Mr. Affe Ali, McDowell High; Ms. Precious Hill, McDowell High; Mr. Kurt Hensley, McDowell High; Mr. Kevin Morgan, McDowell High; Ms. Rebecca Cross, McDowell High; Ms. Anna Medford, McDowell High; Ms. Annette McPeters, McDowell High; Ms. Amy Sills, McDowell High; Ms. Zeba Ali, McDowell High; Ms. Stacey Armitage, McDowell High; Mr. Mike Parker, McDowell High; Mr. Chris Eller, McDowell High; Ms. Heather Kilbourne, McDowell High; Ms. Nancy Guthrie, McDowell High; Mr. Matt Suttles, Boy Scout Troop #210; Mr. Johnny Suttles, Boy Scout Troop #210; Mr. Warren Hobbs, Marion, NC; Ms. Kathy Koon, Recreation Commission; and Mr. Bill Kehler, Marion, NC.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the February 20, 1990 meeting.

**RECOGNITION - BOY SCOUT TROOP #210:** Mayor Clark stated that he would like to recognize the members of Boy Scout Troop #210. Mr. Evey Cuthbertson introduced the members of the Troop and stated that they were attending the meeting as a badge requirement. Mr. Cuthbertson also stated that the Boy Scouts were celebrating their fiftieth year anniversary.

Mayor Clark thanked the Troop for attending the meeting.

**LEADERSHIP CLASS - McDOWELL HIGH SCHOOL:** Mayor Clark recognized Ms. Nancy Guthrie of McDowell High School and students in her Leadership Class.

Ms. Guthrie introduced the members of her class to Council. She stated that the students were officers of the present Student Body at McDowell High School. She stated that they were being trained to be future leaders in the communities and had requested to attend the meeting. She stated that a spokesman from the class would like to present a concern to the Council.

Ms. Heather Kilbourne stated that the class had discussed the issue of homeless persons in McDowell County. She stated that the class would like to know if there had been a study or information gathered concerning this matter. Ms. Kilbourne stated that the class had contacted the Department of Social Services and had been told that they could not see an immediate need for a shelter of this type.

Ms. Guthrie stated that the discussion had initiated when one of the student's family had helped a person who did not have any money or any place to spend the night.

Mayor Clark stated that his wife was present at the meeting and she had been an employee of Social Services for twenty-seven years. He asked if she would like to speak to the matter. Mrs. Clark stated that she would agree with whom ever had given the class the information previously. She stated that the Department of Social Services was allotted moneys from various places for taking care of such persons. She stated that when the Department was aware of such persons, they fed them and put them in hotels for the night. She stated that they encouraged



"transients" to move on away from the area

The City Manager stated that he was aware that the class would be asking about the homeless and had asked Police Chief Gilsdorf to speak to the matter.

Chief Gilsdorf stated that various agencies in the County such as Family Services, Community Care Center, Corpening Foundation, and the Churches took care of persons who were passing through this area and had no place to go. He stated that often times, the persons had homes, but were not allowed to go home until they were in a "better condition". He stated that he did not know of one significant case of someone being homeless. He stated that if a person was found in this state to please notify either the Police Department or Sheriff's Department so that the person can be helped.

Ms. Precious Hill stated that she had been keeping up with the problems of recycling and would like to know if the City had any definite plans in this area.

The City Manager stated that recent legislation had required that the amount of trash placed in landfills be reduced by twenty five percent within the next two years. He stated that he would be presenting a proposal to Council which would require each household to separate aluminum, newspapers and glass would be picked up in the City one time per week. He stated that there were other areas which the City would be looking at for recycling as well.

**POLICE DEPARTMENT - PERSONNEL CHANGES:** The City Manager stated that the Police Committee had been unable to meet and this item would not be able to be presented.

**RECREATION COMMISSION - APPOINTMENT OF ONE MEMBER TO FILL UNEXPIRED TERM OF DAVID BOBO:** Councilman Stronach stated that the motion at the last meeting was to table the matter until a response had been received from the Recreation Commission. He stated that since the information was received earlier tonight, he felt the motion was still in effect. Council was in agreement.

**COMMUNITY BUILDING - COMMITTEE RECOMMENDATION ON USE OF BASEMENT/FEES:** Councilman Little stated that the Community Building Committee had met earlier this evening and found the basement in good shape but there were a few repairs that needed to be done. He stated that there were new lights, the floor was in excellent condition, however, there was no heat and the restroom facilities needed minor repairs.

Councilman Little stated that the Committee would like to recommend that the Wagon Masters be allowed to use the building without charge until repairs were completed. He stated that the Committee would also like to recommend that other persons or parties requesting use of the basement present their requests to Council for consideration until rules and regulations are adopted.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to allow the Wagon Masters to use the basement of the Community Building without charge until repairs could be made. In addition, other persons or parties requesting use of the building would need to present their request to Council for consideration.

**OFFICIAL NAME FOR THE FIVE-LANE:** The City Manager stated that names submitted to the Chamber of Commerce for the Five-Lane had been presented to Council at the last meeting and Council was to choose the official name this evening.

Mayor Clark stated that he felt that the City should have Main Street through town, from the City Limits sign to the City Limits sign. He stated that by naming the Five-Lane Main Street, it would be less confusing when giving persons from out of town directions. He stated that the office had received quite a few post cards requesting that the name be North Main Street.

Councilman Little stated that naming the Five-Lane would not make a lot of difference at this point, because to the persons in the area, it would be known as the Five-Lane. He stated that he preferred Mountain View but from the practical standpoint, he felt that North Main Street would be the best choice.

The City Manager stated that the students in the audience were interested in naming the Five-Lane Titan Boulevard. He stated that he felt that it would be more appropriate to name the road leading to the school Titan Boulevard. He stated that this was in the County so the City could not name the road.

Councilman Cross stated that he appreciated the interest that the Chamber and the City had received from the contest. He stated that he felt that North Main Street was the prudent answer for naming the Five-Lane.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to name the Five-Lane North Main Street and to set a Public Hearing to consider re-naming Rutherford Road to South Main Street.

**SPACEPLAN - SITE STUDY:** Mr. Carroll Hughes of Spaceplan Architecture stated that



his firm had conducted a site study to help determine what would be the best option for a new municipal building. He stated that Mr. John Ledgerton from the firm had prepared the study by reviewing the previous study from the Wooten Company, using interviews with key persons within the City, and analysis of departmental needs.

Mr. John Ledgerton stated that he had prepared eleven different options for Council's consideration. He stated that he had used different combinations for the buildings and the sites. He stated that the main problem for any of the locations would be sufficient parking.

Mr. Ledgerton stated that there still could be variations to the options he presented, however, the options could be the basis for the final decision.

A long discussion followed with Mr. Ledgerton presenting detailed drawings of his recommendations.

Mayor Clark and members of Council thanked the gentlemen for the time and effort put forth in the study.

**TAX COLLECTOR - SET DATE TO ADVERTISE FOR UNPAID TAXES:** The City Manager presented a memorandum from Ms. Claudia Shehan, Tax Collector requesting Council to set the date for advertising unpaid taxes on Wednesday, April 18, 1990.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to set the date for advertising unpaid taxes on Wednesday, April 18, 1990.

**PLANNING/ZONING BOARD - APPOINTMENT OF THREE MEMBERS:** The City Manager presented a memorandum from Mrs. Lovina Smith, Zoning Administrator to Council. The memorandum stated that the Planning/Zoning Board terms of Ms. Kathy Koon, Mr. Wilton Carter and Mr. Walter Morgan had expired. The memorandum stated that each member had indicated that they would serve an additional term.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to reappoint Ms. Kathy Koon, Mr. Wilton Carter and Mr. Walter Morgan to three year terms on the City of Marion Planning/Zoning Board. Said terms will expire January 31, 1993.

**ARBOR DAY PROCLAMATION:** The City Manager presented an Arbor Day Proclamation to Mayor Clark for his signature.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to support the Arbor Day Proclamation as follows:

#### 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. Everette Clark, Mayor of the City of Marion, do hereby proclaim March 16, 1990 as

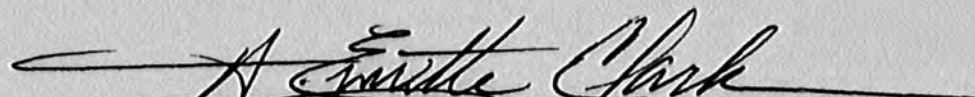
#### ARBOR DAY

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 6TH DAY OF MARCH, 1990

  
A. Everette Clark, Mayor

**TREE BOARD - REQUEST FOR DOGWOOD - MARION ELEMENTARY:** The City Manager presented a memorandum from Mr. Robert Parker, Personnel Director to Council. The memorandum, on behalf of the Marion Tree Board was a request to purchase one five to six foot dogwood tree to be planted at Marion Elementary School in connection with their Arbor Day Celebration.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to authorize the purchase of a five to six foot dogwood tree for Marion Elementary School.

**MR. WARREN HOBBS - REQUEST - MOREHEAD ROAD CEMETERY:** Mr. Warren Hobbs appeared before Council and stated that he was working with a committee to clean the area around the Morehead Road Cemetery. He stated that the condition of the cemetery was terrible, that graves were sinking and it was severely overcrowded to the point that several weeks ago, a casket was uncovered when someone was digging another grave.

Mr. Hobbs stated that he would like to request that the City authorize the Marion Fire Department to be on standby while the persons working at the cemetery were burning around the area and that the City donate four loads of dirt to correct problems where graves had sunk.

Mr. Hobbs stated that he had talked with both Arthur Edwards, Fire Chief and John Reese of the Forest Service and they agreed that it would be no problem to stand by in the event the fire burned out of control.

Councilman Ayers stated that the cemetery would be within the Marion Area Fire District so he did not believe they would need to ask permission to stand by. Council was in agreement.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to donate four loads of dirt to the persons cleaning the cemetery to be used for filling sinking graves.

**GALEY & LORD - NPDES PERMIT:** The City Manager stated that the Utility Committee had met twice in the last week concerning the NPDES Permit for Galey & Lord. He stated that they had met once with the officials from Galey & Lord and the engineers then the second time with City employees. The City Manager stated that the permit was ready to issue to Galey & Lord, however, information from Raleigh had been received which changed the permit once again.

Mr. Bill Hunnicutt stated that this was the fourth time the permit had been redone. He stated that he did not know what the delays were or why there were delays. Mr. Hunnicutt stated that the process was beginning to be very expensive and it seemed he was "playing a ballgame without rules".

Councilman Little asked if Marion was the only City being singled out. He was advised that the other Cities with industries were having similar problems.

The City Manager stated that the last letter he received from Raleigh stated that Galey & Lord had to do something about equalization and stated that an additional study should be done.

Councilman Ayers stated that he understood that the study would benefit no one except Galey & Lord and he did not feel it was necessary. He stated that he thought representatives needed to go to Raleigh and talk to the wastewater officials directly.

Mayor Clark stated that with all of the rules constantly changing, it appeared that the City did not know what to do about the situation.

The City Manager stated that the bottom line was that the City had to treat the wastewater discharged to the plants before it was allowed into the streams. He stated that regardless of the studies done, the plant would only be able to treat what the plant could handle.

Councilman Ayers stated that he told Galey & Lord when they were at the meeting if their operations caused the City to be fined that the City would fine them the same amount. Council was in agreement.

Councilman Ayers stated the permit had to be issued by April 30, 1990 or a Civil Penalty would be handed to the City.



Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to authorize Mr. Bill Hunnicutt and Mr. Gary McGill to work out the details of the discharge permit to be issued prior to April 30, 1990 and to request that the City Attorney prepare a letter to the officials in Raleigh concerning the problems the City is experiencing.

**REQUEST FOR ADDITIONAL PICK-UP - TILSON SANITATION:** The City Manager presented a letter from Mr. David Tilson and Stamey's Video to add the business to the list of garbage collection serviced by Tilson Sanitation. The request was for a six yard container to be picked up twice per week. A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to pick up an eight yard container one time per week and add the business to the list of persons served by Tilson Sanitation.

**REPORTS:**

**1. INVITATION - RECREATION COMMISSION:** The City Manager stated that he had received a request from Mr. Wayne Tucci of the Recreation Commission challenging the members of Council to a basketball game. A discussion followed. Due to the short notice and Council members being out of town or involved in other tournaments, Council declined the offer.

**2. COUNCILMAN STRONACH - LETTER FROM JENSEN ENGINEERING:** Councilman Stronach asked if action needed to be taken on the letter received from Jensen Engineering earlier this evening.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to authorize the City Manager to take proper action.

**3. COUNCILMAN CROSS - COMMENTS:** Councilman Cross stated that he had received a request for the City to install a left leading arrow for persons turning from Henderson Street onto Logan Street. Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to authorize the City Manager to present the request for the left leading arrow for persons turning left from Henderson Street to Logan Street to the Department of Transportation.


**4. CHIEF OF POLICE - CERTIFICATE OF APPRECIATION:** The Police Chief stated that he would like to present a Certificate of Appreciation to Mr. Bill Kehler for the assistance he gave the Police Department in the apprehension of a person who had robbed a store on Main Street. Members of Council also expressed their appreciation to Mr. Kehler.

**5. CHIEF GILSDORF - REQUEST TO SUPPORT BIKE-A-THON FOR ST. JUDES HOSPITAL:** The Police Chief stated that he would like to request that Council approve the request from McDowell Hospital to use a portion of Spaulding Road for a Bike-A-Thon to benefit St. Jude's Hospital.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the request.

**6. SPECIAL MEETING TO DISCUSS SITE STUDY:** Council agreed to meet on Tuesday night, March 13, 1990 at 7:00 P.M. to discuss the site study.

**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

March 13, 1990

The City Council for the City of Marion met in a Special Session on Tuesday night, March 13, 1990 at 7:00 P.M. in the City Council Chamber



**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilman Robert Ayers, Joe Tyler, John Cross, Angus Stronach, and Stephen Little.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Alvin Callahan, Building Inspector; Glen Sherlin, Public Works Director, William Gilsdorf, Chief of Police; Robert Parker, Personnel; Lydia Carrington, News Reporter, McDowell News; Van McKinney, News, WBRM.

**GUEST PRESENT:** Mr. Bill Griffith, Griffith's Jewelers; Woody Killough, Killough's Music Center; Freddie Killough, Downtown Business Association; Mrs Nancy Clark; Mr. Jim Neal, Volunteer Fireman.

**MEETING CALLED TO ORDER:** The meeting was called to order by Mayor A. Everette Clark to discuss one specific item - that item being the space needs of the City. At that point, the Mayor turned the meeting over to the City Manager. The Mayor asked him to share where the City's present standing was on the space needs study.

After a quick over view of the needs of the various departments along with the purchase of the property to in an attempt to build to meet those needs, questions arose as to the adequacy of the property. The Wooten Company was called in to do a space plan study. With still questions coming about, the City contracted with a company called Space Plan to look at all the properties owned by the City including the parking lot on West Henderson. Space Plan talked with various department heads and made eleven recommendations.

The City Manager after studying the recommendations, made a final proposal to Council:

1. That City employees, with some assistance where needed, remove all of the buildings which were purchased by the City on the corner of Court and Logan.
2. That the area be filled to a level with the present City parking area
3. That plans and specifications be prepared for the construction of a new fire station on said lot with drive through fire bays fronting on Court Street. (Projected cost by Space Plan \$437,000.00)
4. That the present City Council Chambers be used as they are presently being used
5. That upon completion of the fire station on an as needed basis the following could be completed:

The present City Hall to be renovated to meet the police and administrative departments needs.

6. The up stairs of the existing City Hall be for administrative offices.

The City Manager gave an explanation of how the renovation could take place and how the various areas would be divided.

The City Manager made another recommendation that the lot behind City Hall be made a private lot. Spaces would be reserved for City employees with additional spaces being rented on a first come first serve basis. The funds could be set aside to build a parking deck in the same area.

A side recommendation was made to remove the rest rooms and put benches or a picnic table or make room for additional parking. At the close of the meeting, Council approved the removal of the rest rooms by an informal agreement. No vote was taken.

The City Manager explained that he had received several calls and letters about the site at the end of Logan and West Henderson dealing the loss of the parking area.

Councilman Cross stated that a question had arisen about fire trucks exiting on Court Street and the immediate steep grade that would be encountered by a left turn. The City Manager stated that he talked with the fire chief and others. He was assured that there would be no problem. Mr. Jim Neal concurred that there would not be a problem.

Mr. Neal stated that he had coned off the areas on both proposed sites. (Parking lot on West Henderson and end of Logan and the site on the corner of Court and Logan.)

Councilman Stronach questioned if the grade on Court Street could be killed out to allow the bays to be level. It was pointed out that an engineer would have to determine if the grade would cause a problem.



Councilman Little stated that all the bays would not have to be same height or on the same level. The bays could be stepped with the increase of the grade.

Councilman Little questioned if there would be enough of a turning radius for a truck coming down Brown Drive to be able to enter the bays from the rear. The answer by Mr. Neal was yes.

Some discussion followed about the size of the fire station the loss of parking etc.

Mrs. Killough spoke for the Downtown Business Association concerning the loss of the parking at the lot on West Henderson. She expressed the merchants concern over the loss of that parking.

Mr. Griffith also spoke his concern over the loss of that parking and the need to clean out the lot behind his store where employees of merchants were parking preventing customer parking. Mr. Griffith also stated that it would be much better for the City to have all the City building in one area.

Several advantages were shared by Mr. Daniels on having the building at one site. They are listed as follows:

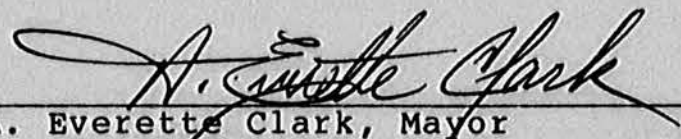
1. Allow for a one combined electrical service
2. Communications between buildings would be more efficient
3. Employees that work with the fire department and other administrative offices would not be hindered.
4. Customers dealing with different departments would not have to walk great distances

After more discussion on parking and other comments by the chief of police a motion was made.


Councilman Stronach made a motion to adjourn to go look at the sights coned of by Mr. Jim Neal and vote on the proposal at the next meeting. After more discussion, Councilman Ayers seconded the motion.

The Council asked the City Manager to contact Space Plan before the next meeting to get more information from an engineer to determine if the grade on Court Street would cause a problem.

The City Manager suggested that whatever proposal is accepted that the building be built by an installment purchase agreement.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

March 20, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, March 20, 1990 at 7:00 P.M.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Angus Stronach; Joe Tyler; Steve Little and John Cross. Councilman Robert Ayers arrived at 7:55 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Alvin Callahan, Building Inspector; Larry Ballard, Utility Line Superintendent; Nora Arrowood, Marion Police Department; Arthur O'Dear, Marion Police Department; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator, Water Filter Plant; Arthur Edwards, Fire Department; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.



**GUESTS PRESENT:** Mr. Fred Nanney, Marion Fire Department; Mr. Lee Cate, Marion Fire Department; Mr. Charlie Presnell, Marion Fire Department; Mr. J. J. Laughridge, Marion Fire Department; Mrs. Freddie Killough, Marion Downtown Business Association; Mr. Woody Killough, Marion Downtown Business Association; Mr. Fred Coates, Marion, North Carolina; Dr. Joe Middleton, Marion, North Carolina; and Mr. Larry Brown, Marion, North Carolina.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the minutes of the March 6, 1990 meeting.

**REQUEST - STREET NAME CHANGE - MRS. WALTON CLAPP:** The City Manager presented a letter to Council from Mrs. Walton Clapp requesting that Currier Avenue be renamed as Sinclair Avenue since the road is located directly across from Sinclair Avenue. The letter stated that there was only one residence and several mobile homes on the street.

Councilman Cross stated that he had received a call from a resident on Currier Avenue and they were opposed to the street name change.

Councilman Stronach stated that he felt that Council needed to listen to comments from the persons living on the street and follow their wishes.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to table the matter indefinitely.

**REQUEST - DRIVEWAY IMPROVEMENTS - FAMILY SERVICES OF McDOWELL:** The City Manager stated that he had received a request to repair the driveway at Family Services located on Blue Ridge Street. He stated that the driveway was in the City of Marion right-of-way. The City Manager stated that if any action was taken, he felt that it would be in the best interest of the City to pave the driveway. A short discussion followed.

Mayor Clark asked if the City repaired the driveway once would they be expected to continue to make the repairs. He was informed that the City most likely would.

A short discussion followed. The City Manager was directed to furnish Council with estimates at the next meeting.

**MRS. FLEMMING SNIPES - COMPLAINT - VISIBILITY ORDINANCE:** The City Manager presented a letter to Council from Mrs. Flemming Snipes concerning her disagreement with the City of Marion Visibility Ordinance.

Mayor Clark stated that he felt that no action should be taken concerning the letter because any change would require the ordinance to be rewritten.

The letter from Mrs. Snipes is filed in the safe in the legal documents.

**REQUEST - DEPARTMENT OF TRANSPORTATION:** The City Manager stated that during the heavy rains last weekend a road had washed out near the Water Filter Plant. He stated that the Department of Transportation would like to use dirt from City owned property from area instead of having to haul dirt in from another location.

Mayor Clark stated that he had no problems with allowing the Department of Transportation removing the dirt, however, he would like for them to keep the area clean and when they are finished working to grass the area.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow the Department of Transportation to remove the dirt if they will keep the area clean and regrass the area when the work is finished.

**POLICE DEPARTMENT - PERSONNEL CHANGES:** The matter was tabled until the next meeting due to the absence of the Police Chief.

**POLICE DEPARTMENT - REQUEST - MARION JC'S:** Mrs. Nora Arrowood presented a memorandum from Chief Gilsdorf on behalf of the Marion JC's requesting that they have officers present during a circus they are sponsoring and to have a "road block" on Hwy 70 W on a Saturday in April.

A question was asked concerning the "road block". Mrs. Arrowood stated that it would be persons near the area of Darryl Ford collecting funds for the JC's.

Councilman Little stated that there had been quite a bit of discussion in Charlotte concerning persons in intersections collecting funds for various organizations that had resulted in such actions being banned. He stated that he would have a concern for the persons standing in traffic collecting funds. A discussion followed.

Mayor Clark asked if extra officers would be needed during the circus. Mrs. Arrowood stated that no officers would be needed except for directing traffic. Councilman Little asked if members of The REACT could help with directing traffic.



Councilman Little stated that he felt that the organizations should be billed if additional police personnel were required. The City Manager stated that he felt that charging for requesting extra police personnel by private organizations was proper if events were scheduled on private property or leased public property.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present approved the request from the JC's for the circus and took no stand on the road block for collection of funds.

The City Manager was directed to look into ordinances concerning roadblocks for the collection of funds.

**RECREATION COMMISSION - APPOINT ONE MEMBER TO FILL UNEXPIRED TERM OF DAVID BOBO:** The City Manager stated that the appointment of one member to fill the unexpired term of David Bobo had been tabled until a report had been received from the Recreation Commission. He stated that the report had been received.

Councilman Little requested that the matter be tabled. Those members of Council present agreed.

**REPORT - BIDS - REPLACEMENT OF FIRE TRUCK TANK:** The City Manager stated that the Fire Chief had received two bids for the replacement of the fire tanker truck tank as follows:

1. Carolina Firemasters, Inc., Bennettsville, SC.  
\$7262.00 for poly tank.
2. Grueman Emergency Products, Roanoke, VA  
\$8623.00 for galvanized booster tank.

The City Manager stated that the Fire Chief would prefer the galvanized tank over the poly tank.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to accept the bid of Grueman Emergency Products for a galvanized tank in the amount of \$8623.00.

**REPORT - BIDS TAKEN FOR REMOVAL OF GROUND WATER STORAGE TANK:**

The City Manager stated that a bid opening had been held on Monday, March 19, 1990 at 2:00 P.M. in the City Council Chamber. The bids were for the removal of a 200,000 gallon ground water storage tank. The bids were as follows:

1. McLean Tank Company - \$105.00 with a one year time limit to remove the tank.
2. Carver Tank Company - \$1.00 with a six week time limit to remove the tank.

The City Manager stated that it was the recommendation of the Chief Operator of the Water Filter Plant and the Public Works Director to accept the bid of Carver Tank Company in the amount of \$1.00. He stated that the tank could not be used with the new tank due to the elevation of the tank, and it would not be feasible to use the tank by itself. He stated that in addition, the tank was off plumb approximately six inches.

Councilman Little asked if this was the tank that would cost approximately \$10,000 for the City to have removed. He was advised that it was.

Councilman Stronach stated that it had been discussed at the Utility Committee Meeting the possibility of Galey & Lord using the tank for a settling basin.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to allow Galey & Lord to have the tank for a settling basin with them removing the tank at no cost to the City or to allow Carter Tank Company to purchase the tank for \$1.00 and remove it within six weeks.

**RESOLUTION - TCI CABLEVISION:** The City Manager presented to Council a resolution from TCI Cablevision transferring the franchise to InterMedia Partners of Carolina. He stated that he would like for the City Attorney to review the resolution since it had been prepared by TCI Cablevision. He also stated that he thought that the resolution needed to be read at two regular scheduled meetings before it could be adopted.

A short discussion followed. Council directed the City Manager to invite Mr. Wayne Ollis, System Manager of TCI Cablevision to the next meeting to respond to questions.

**1989 - 1990 BUDGET ORDINANCE AMENDMENT:** Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following



## Budget Ordinance Amendment

1989-90 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 1989-90 as adopted by the City Council on the 20th day of June, 1989 and as amended on the 21st day of November, 1989 and the 6th day of February, 1990 is hereby amended as follows:

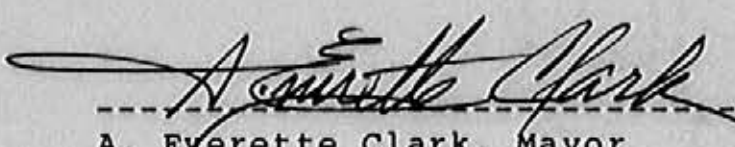
Section 1. Water-Sewer Fund Revenues, Account Number 30-299-00, Fund Balance Appropriated is increased from \$191,173 to \$540,848 an increase of \$349,675.

Section 2. Water-Sewer Fund Expenditures, Account Number 30-660-101 Transfer to Capital Project Fund (Forest Road Area - Sewer System Improvements), is increased from \$00.00 to \$63,900, an increase of \$63,900.

Section 3. Water-Sewer Fund Expenditures, Account Number 30-660-102 Transfer to Capital Project Fund (Clinchfield Area - Sewer System Improvements), is increased from \$00.00 to \$285,775, and increase of \$285,775.

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 20th day of March, 1990.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk

Ordinance No. 0-90-03-20-01

CAPITAL PROJECT BUDGET ORDINANCE - FOREST ROAD AREA - SEWER SYSTEM IMPROVEMENTS:  
Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following Capital Project Budget Ordinance:

CAPITAL PROJECT BUDGET ORDINANCE  
FOREST ROAD AREA - SEWER SYSTEM IMPROVEMENTS

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

Section 1. The following amounts are hereby appropriated in the Capital Project Budget (FOREST ROAD AREA - SEWER SYSTEM IMPROVEMENTS) for the construction of new outfall lines, collector lines and necessary appurtenances, including administrative and technical services:


Administrative	\$ 6,500
Design Engineering/Surveying	3,000
Inspection	3,300
Construction Costs	46,450
Contingencies	4,650
<b>TOTAL PROJECT COST</b>	<b>\$ 63,900</b>


Section 2. It is estimated that the following revenues will be available for the project:

City Funds Available	\$ 63,900
Total Estimated Revenues	\$ 63,900

Section 3. Copies of this Capital Project Ordinance (FOREST ROAD AREA - SEWER SYSTEM IMPROVEMENTS) shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

Adopted this the 20th day of March, 1990.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk



Ordinance No. O-90-03-20-02

**CAPITAL PROJECT BUDGET ORDINANCE - CLINCHFIELD AREA - SEWER SYSTEM IMPROVEMENTS:**  
Upon a motion by Councilman Stronach seconded by Councilman Little, Council voted unanimously to adopt the following Capital Project Budget Ordinance:

CAPITAL PROJECT BUDGET ORDINANCE  
CLINCHFIELD AREA - SEWER SYSTEM IMPROVEMENTS

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

Section 1. The following amounts are hereby appropriated in the Capital Project Budget (CLINCHFIELD AREA - SEWER SYSTEM IMPROVEMENTS) for the construction of new outfall lines, collector lines and necessary appurtenances, including administrative and technical services:

Administrative	\$ 12,775
Design Engineering/Surveying	12,300
Inspection	12,800 Construction Costs
225,400	
Contingencies	22,500
<b>TOTAL PROJECT COST</b>	<b>\$ 285,775</b>


Section 2. It is estimated that the following revenues will be available for the project:

City Funds Available	\$ 285,775
Total Estimated Revenues	\$ 285,775

Section 3. Copies of this Capital Project Ordinance (CLINCHFIELD AREA -SEWER SYSTEM IMPROVEMENTS) shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

Adopted this the 20th day of March, 1990.

ATTEST:   
J. Earl Daniels, City Manager/Clerk

  
A. Everette Clark, Mayor

Ordinance No. O-90-03-20-03

**CITY OF MARION SAFETY DIRECTOR - RESIGNATION:** The City Manager stated that Mr. Bill Hunnicutt had resigned his position as Safety Director for the City of Marion due to the increasing responsibilities with the wastewater pretreatment program. He stated that he had asked Mr. Arthur Edwards, Fire Chief if he would serve in this capacity. Mr. Edwards had advised that he would serve.

Councilman Stronach stated that as the Council representative on the Safety Committee, he would like to commend Mr. Hunnicutt for his work while serving as Safety Director and would like for him to be publicly recognized at the next meeting of Council. The other members of Council were in agreement.

**MR. BILL HINTON - NC UTILITIES COMMISSION - REQUEST:** The City Manager stated that he had received a call from Mr. Bill Hinton of the North Carolina Utilities Commission requesting a listing of the utility customers for the City of Marion. He stated that he was working on a survey concerning the possibility of natural gas in this area. He asked if Council objected to giving out this information.

A discussion followed. Members of Council were concerned that the names and addresses of the utility customers would be given to additional persons once the study was completed.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to request that the Utility Committee request more information from Mr. Hinton and if they felt that it would benefit the City then release the information to him.

**PROPOSED MUNICIPAL BUILDING - DISCUSSION:** The City Manager stated that he would like to thank Mr. J.J. Laughridge, Mr. Jim Neal, Mr. Tom Milligan and Mr. Alvin Callahan for getting elevations on the lot for the proposed building.

Mr. J. J. Laughridge stated that after getting the elevations for the proposed fire station in the lot adjacent to the present City Hall with the fire bays



fronting on West Court Street would not be feasible. He stated that the elevations would be going up approximately an average of one foot per a fifteen foot space. He stated that the trucks could not get out of the bays and have the speed that they would need. He stated that a more economical and less hazardous way would be to construct the fire station in the same location but have the bays fronting on Logan Street.

Mr. Laughridge stated that if the building was built with the bays fronting on Logan Street, in order to allow the longer trucks to drive thorough the bays, they would have to remove the present Council Chamber Building and that Brown Drive would need to be widened and become a one-way street entering from Main Street and exiting from Logan Street.

The City Manager stated that with the removal of the Council Chamber, some of the parking area would have to be removed. He stated that he felt that the lot directly behind the City Hall building could become a private lot and would solve the problem. He stated that the Fire Meeting Room could be used for the Council Chamber until the new Fire Building was completed and then the two bays at the front of the City Hall Building could be converted to a Council Chamber. He stated that the rest of the spaced used by the fire department could be used by administration and the police department.

Councilman Stronach stated that the building could be built in the parking lot on West Henderson Street and the existing Council Chamber would not have to be removed. He stated that he felt that no consideration had been given to this option.

Mr. Laughridge stated that the site at West Henderson Street would be less costly in the beginning but the site on West Court Street would be a greater benefit. He stated that the cost of the two buildings was not an amount that would decide one place over the other.

Councilman Little stated that the property on West Court Street had been purchased for the purpose of expansion and he felt that the lot should be used.

Mayor Clark stated that if the lot on West Henderson Street was used, a majority of parking for the downtown would be gone. He stated that if there was no parking available, certain businesses would close.

Mr. Woody Killough stated that he had counted the spaces used earlier this afternoon. He stated that he would like to note that Tuesday afternoons are usually slow and it was a cold day, however, three fourths of the parking places in the lot were filled.

Mr. Fred Coates stated that the right-of-way required by the railroad would be one-hundred feet from the center of the tracks. He stated that the lot was used on Mondays and Wednesdays for persons involved in court cases.

Councilman Ayers stated that when he had seen the size of the proposed building marked out on the lot, he could not justify building the building at the West Henderson site.

Councilman Tyler stated that if the building was built on West Henderson, the buildings on West Court Street could be torn down and the area used for parking.

Councilman Stronach stated that there would not have to be any buildings removed if the building was built on West Henderson.

Councilman Little made a motion, seconded by Councilman Ayers that the City Council accept the plan to construct the proposed fire station on the lot at the corner of Logan Streets and West Court Streets with the fire bays fronting on Logan Street.

The City Manager stated that it would not be too late to back out of construction of the building if there were any major problems.

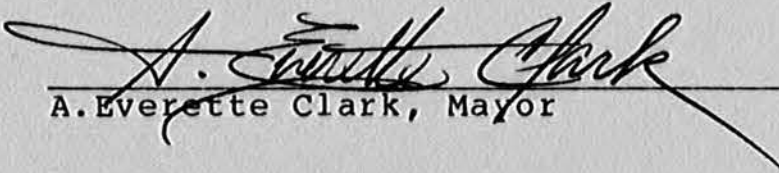
Councilman Little stated that he would like to amend his motion to include that the plan be adopted subject to the architects and engineers having no problems with the location. Councilman Ayers seconded the amendment. The vote was as follows: Ayes: Councilman Little, Councilman Ayers and Councilman Cross. Noes: Councilman Tyler and Councilman Stronach.

The City Manager asked if Council felt it would be appropriate for Council to include representatives from the Fire Department during the interviews of architects. He stated that he would also like to recommend that the building be constructed on an installment purchase plan rather than by a bond referendum. Council was in agreement.

Fire Chief Arthur Edwards stated that on behalf of the fire department, he would like to thank Council for their help in the matter and to especially thank Councilman Stronach and Councilman Tyler.



**ADJOURNMENT:** Upon a motion by Councilman Tyler, seconded by Councilman Stronach, 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**

**April 3, 1990**

The City of Marion met in Regular Session on Tuesday night, April 3, 1990 at 7:00 P.M. in the City Council Chamber.

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

**BOARD MEMBER ABSENT:** Councilman Angus Stronach.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Trisha Beam, Environmental Specialist; Bill Gilsdorf, Chief of Police; Nora Arrowood, Marion Police Department; Arthur O'Dear, Marion Police Department; Aaron Adams, Street Superintendent; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

**GUESTS PRESENT:** Mr. Brentley Cuthbertson, 122 Rutherford Road; Mr. Carthel Cuthbertson, 122 Rutherford Road; Mr. Ron Denuna, 306 Viewpoint Drive; Mr. John Morrow, 324 Rutherford Road; Ms. Elizabeth Morrow, 324 Rutherford Road; Ms. Lois Cook, 154 Rutherford Road; Ms. Ti Clapp, 206 Rutherford Road; Ms. Opal B. Ramsey, 19 Rutherford Road; Ms. Rosaline Clark, 112 Rutherford Road; Mr. Walton Clapp Jr., 206 Rutherford Road; Ms. Margaret Gourley, 240 Rutherford Road; Ms. Pearl Kuhlman, 227 Highland Drive; Ms. Louise Young, 223 Highland Drive; Ms. Heather Young, 223 Highland Drive; Ms. Jeanie Hodde, 730 Pinecrest Drive; Mr. Wayne Ollis, TCI Cablevision; Mr. Bill Blasko, 235 Rutherford Road; Ms. Shirley Blasko, 238 Rutherford Road; Mr. Ed Hill, 12 Rutherford Road; Mrs. Marie Hill, 12 Rutherford Road; Mr. Ed Rankin, 149 Rutherford Road; Mrs. Lois Rankin, 149 Rutherford Road; Mrs. Thelma Calicutt, Rutherford Road; Mr. David Tilson, Tilson Sanitation; and Mr. Jim Kalkwarf, Garbage Disposal Services.

**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 March 13 and March 20, 1990 meetings.

**PUBLIC HEARING - RENAMING RUTHERFORD ROAD TO SOUTH MAIN STREET:** The City Manager opened a Public Hearing for the purpose of renaming Rutherford Road to South Main Street.

Mayor Clark asked the City Manager to explain to the persons present how the proposal came about. The City Manager stated that when a name was chosen for the Five Lane, it was suggested that Rutherford Road be changed to South Main Street so that Main Street would run from Interstate 40 to the Catawba River.

Mr. Brently Cuthbertson presented the City Manager a petition from approximately fifty-nine residents on Rutherford Road who were opposed to changing the name. A discussion followed.

Upon a motion by Councilman Tyler, seconded by Councilman Cross, those members of Council present voted unanimously not to change the name of Rutherford Road to South Main Street.

**POLICE DEPARTMENT - PRESENTATION OF INTERMEDIATE STATE CERTIFICATION - MS. NORA ARROWOOD:** Chief Gilsdorf presented Ms. Nora Arrowood with an Intermediate State Certification Certificate. He stated that in order to receive the Certification,



Ms. Arrowood had completed approximately two -hundred hours of school. He stated That she had completed the classes either on days off or vacation time.

Those members of Council present congratulated Ms. Arrowood for receiving the certification.

**RECOGNITION - MR. BILL HUNNICUTT - TERM SERVED AS SAFETY DIRECTOR:** The City Manager stated that he would like to recognize Mr. Bill Hunnicutt who had served as Safety Director for the City since 1985. The City Manager stated that Mr. Hunnicutt had to resign from the position due to the work load of the pretreatment operation.

Mayor Clark stated that he would like to thank Mr. Hunnicutt for the super job he had done with the Safety Committee during his term as director. The members of Council present also expressed their appreciation to Mr. Hunnicutt.

**HABITAT FOR HUMANITY - REQUEST TO PLACE BANNER:** The City Manager presented a request from Habitat for Humanity to place a banner over Main Street for their annual Jamboree.

The City Manager stated that Habitat for Humanity would like to have the banner installed as soon as possible and left up through the end of the month. He stated that a request from the Senior Center had been approved previously during the same time. A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council voted unanimously to approve the request for the banner.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST - EASTER PARADE:** The City Manager presented a request from the Downtown Business Association to conduct an Easter Parade on Thursday, April 12, 1990 from 10:30 A.M. to 11:00 A.M. The request was to block Main Street between Henderson and Court Streets.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the request for the Easter Parade.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST - EASTER EGG HUNT:** The City Manager presented a request from the Downtown Business Association to hold an Easter Egg Hunt on Thursday, April 12, 1990 from 11:00 A.M. to 11:45 A.M. in the park at the Community Building or in case of rain in the basement of the Community Building.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the request for the Easter Egg Hunt.

**HIGHLAND DRIVE RESIDENTS - COMPLAINT - TCI CABLEVISION:** Ms. Heather Young appeared before Council concerning a complaint with TCI Cablevision. Ms. Young stated that last March, she had written a letter to Council stating that the persons at the end of Highland Drive did not have cable television services. (Reference Minutes of March 21, 1989). Ms. Young stated that she had been told that she should have cable available to her residence by July 1, 1989 when the area would be annexed into the City. She stated that she still did not have cable service.

Mr. Wayne Ollis of TCI Cablevision stated that he had planned to build the line as a "tag-on" in last year's budget, however, he had several problems and he did not have the funds to add on any additional subscribers. He stated that he now had the wire and the persons would have cable service within the next sixty days.

Ms. Young was thanked for appearing at the meeting and was told if she did not have service in sixty days to come to a Council meeting again.

**TCI CABLEVISION - RESOLUTION - FRANCHISE:** The City Manager presented a Resolution to Council concerning a change in the franchise for TCI Cablevision to Intermedia Partners. He stated that the Resolution could not be adopted until the next meeting due to a requirement that a notice be published in the newspaper.

Councilman Little stated that he would like to ask Mr. Ollis if the price of cable could be reduced if some stations were not wanted. Mr. Ollis stated that a discount was offered to customers now if certain channels were not wanted by that customer. He stated that some time in the future, a "Tier Package" would be offered which would allow the customers to have the major networks and then choose the other stations they would like to have and pay accordingly.

Ms. Freddie Killough asked Mr. Ollis why some of the stations were blocked out at certain times during the day. Mr. Ollis stated that regulations by the Federal Government required the cable companies to block out a program showed on a station if the syndication was purchased by another station. He stated that if the program was not blocked out, he could be fined on a per day basis.

Mayor Clark asked Mr. Ollis if there would be a rate increase soon after the franchise was transferred. Mr. Ollis stated that he had not heard anything about



a rate increase.

Mayor Clark asked Mr. Ollis if the City could get a Profit and Loss Statement from TCI since the City received a percentage of the profits in a franchise tax. Mr. Ollis stated that he did not believe the City could get a Profit and Loss Statement, however, they could get an audit.

The discussion followed. Those members of Council present agreed to request a copy of the annual audit of TCI Cablevision.

**FAMILY SERVICES - REQUEST - DRIVEWAY IMPROVEMENTS:** The City Manager stated that he had received quotes on the cost for replacing the driveway at Family Services. (Reference Minutes of March 20, 1990). The price to pave the driveway around the building is \$1,050 and to patch the potholes in the driveway, it would be \$300.00. He stated that the work would have to be contracted out if the entire drive was paved because the City did not have the equipment that was needed.

Councilman Little stated that he had been up to the area and the driveway did not appear to be in as bad of condition as he had first thought. He stated that since the drive served a private property, he did not feel that the City should be responsible for fixing the drive.

Councilman Ayers stated that he agreed with Councilman Little and since the City made an annual contribution toward the organization he did not feel the taxpayers should have to repair the driveway in addition to the contribution. He stated that he was aware of several churches that also contributed to the organization and suggested that Family Services contact churches or other similar organizations for donations to repair the driveway.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council voted unanimously to deny the request to repair the driveway at Family Services.

**RECREATION COMMISSION - APPOINT ONE MEMBER TO FILL THE UNEXPIRED TERM OF DAVID BOBO:** Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council voted unanimously to appoint Mr. Fred Koon to fill the unexpired term of Mr. David Bobo on the Recreation Commission. Said term will expire September 18, 1990.

**ABC BOARD - APPOINT ONE MEMBER - TERM OF BOB TEETER EXPIRES APRIL 18, 1990:** The City Manager stated that the term of Mr. Bob Teeter on the ABC Board would expire on April 18. He stated that Mr. Teeter had agreed to serve another term if he were to be re-appointed.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council voted unanimously to re-appoint Mr. Bob Teeter to a three year term on the ABC Board. Said term to expire April 18, 1993.

**RESOLUTION OF CONSIDERATION - ANNEXATION:** Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following Resolution:

**A RESOLUTION IDENTIFYING THE AREA  
DESCRIBED HEREIN AS BEING  
UNDER CONSIDERATION FOR ANNEXATION**

**BE IT RESOLVED** by the City Council of the City of Marion:

That pursuant to G.S. 160A-37(i), the following described areas are hereby identified as being under consideration for future annexation by the City of Marion, under the provisions of Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina:

The descriptions below are in reference to the map which will be certified as the actual area under consideration. This map will be placed on display in the Office of Community Development and Zoning and the City Clerk.

This RESOLUTION OF CONSIDERATION will include these described areas which are contiguous to the City Limits of the City of Marion on this the 3th day of April, 1990

Areas under consideration will include all properties which area either contiguous to, have access to, or are in developments which are directly connected to, the streets listed as boundaries. This is to be understood unless otherwise stated. This description will include all properties which lie between these listed boundaries and the current City Limits. SECTION I. is described clockwise and all other sections are described in a counter-clockwise manner.

**SECTION I.**



The eastern boundary will follow Reid Street South to the intersection of Reid Street and Burma Road West to Shady Lane. The boundary (line) will then run South to the end of Shady Lane at the intersection with S.R. 1168. The line will then continue across the back of lots from Shady Lane in a North Northwest direction until it reaches Sugar Hill Road. This will include all lots/properties on Shady Lane, Popular Street and Meadow Lane.

The line will then pass across Sugar Hill Road and then continue North Northwest on Veterans Drive to Sunset Drive. The boundary will follow Sunset Drive South Southwest to the end of the road at which point the line will follow the back of property lines in a Northward manner and meet the property at the end of Veterans Drive Extension to the North. This will include all lots along Veterans Drive to the bridge over the creek, Sunset Drive, McKinney Road, Tanglewood Drive, Veterans Drive Extension and the dirt road which attaches to Veterans Drive Extension.

The boundary will then continue along S.R. 1195 North Northeast until it intersects with Southern Railroad tracks. It will then proceed along the tracks Southeast until it meets the current City Limits  
(The creek on Veterans Drive will be the most Westerly point in this section.)

#### SECTION II.

The boundary will follow U.S. Hwy. 221 (i.e.: Rutherford Road) Southeast to the U.S. Hwy. 221/N.C. 226 junction, then follow property lines in a North Northeast manner until the boundary line intersects with Carolina, Clinchfield and Ohio Railroad tracks.

The line will then proceed North on the tracks until it reaches the over-pass on U.S. Hwy. 70 the Carolina, Clinchfield, and Ohio tracks will be considered the most eastern boundary. The line will then continue following U.S. Hwy. 70 West until it reaches the current City Limits.

#### SECTION III.

The South boundary will follow the U.S. Hwy. 70 East to the Carolina, Clinchfield, and Ohio Railroad tracks over-pass; it will then continue along the tracks North to a point where Burlington Mills property adjoins the railroad tracks at it's most Northern corner.

At this point, in the North corner of Burlington Mills property which is contiguous to the railroad tracks; the line will follow the Burlington Mills property line Northwestern until it connects with the dead-ended portion of Old Morganton Road (Ridge Street). It will then follow Old Morganton Road West to the intersection with Ridge Road. The boundary will then proceed North on Ridge Road to School Street and then continue West on School Street to Tank Street. All properties along East Side Avenue and S.R. 1582, which is North of School Street will be considered within this description.

The line will continue Northwest on Tank Street/Virginia Road to Forsyth Street and then shall proceed North on Forsyth Street. At a point North on Forsyth Street, where the last lot adjoins, the line will follow lot lines across their North boundaries between Forsyth Street and Hill Street. This line will be in a West direction. This boundary will be in such a manner to include all properties along Forsyth Street, Virginia Avenue, and Hill Street. The line will then proceed along Hill Street South back to Virginia Road.

The boundary will then follow Virginia Road West to the sharp curve which bends to the South; at this point it will follow property lines to the North to Yancey Road (S.R. 1501). It will then run North with Yancey Road to a point due East of the dead-end of Wall Street. A boundary will follow along the property lines running West from Yancey Road to the last lot on the North end of Wall Street.

The line will then follow Wall Street to London Avenue where it will run West along London Avenue to the current City limits. This will include all properties along the described portion of Yancey Road, Dogwood Lane, London Avenue, and Wall Street.

#### SECTION IV.

The border will proceed along the North boundary line of the properties along Dogwood Lane. The line will continue West and run North when it reaches Victory Drive (formerly known as Pea Ridge Road). The line will run along the North border of lots between Victory Drive and Airport Road. It will then proceed North on Airport Road until it reaches Jackson Road. At Jackson Road, the line will follow the road North to the end from which the border will follow property boundary North Northeast to the dead-end portion of Grandview Street.

The line will then continue North on Grandview Street to the intersection at Airport Road and Grandview Road. The boundary will run across the intersection and continue North on Tyler Heights. All of Tyler Heights will be considered within this section.



At the point where Grandview Street, Tyler Heights and Airport Road intersect the boundary will pick back up and proceed Southwest along Airport Road. This will include the development just South of the intersection to Tyler Heights. The line will continue South along Airport Road to the intersection of Airport Road and Holly Street (S.R. 1510). At this intersection, & continue West on Holly Street to Mountain Street. Included will be all properties on Mountain Street and Pine Crest Drive. The boundary will then continue at the Mountain Street and Holly Street intersection

The border will then follow Holly Street West from Mountain Street to Garden Creek Road where the line will follow Garden Creek Road North to U.S. Hwy. 70/221. The line will then proceed South on U.S. Hwy. 70/221 until it meets the current City Limits

#### SECTION V.

The boundary will proceed North on U.S. Hwy. 70/221 to the Catawba River. The line will then follow the Catawba River West until it is at a point due North of the McDowell County High School and Junior High School property. At that point, the boundary will proceed from the river due South to the Northwest corner of the McDowell County school property.

Following the most Westerly boundary along the McDowell County school property, the line will continue South until it bends around and meets the Northwest corner of the lot which is contiguous to U.S. Hwy. 70/221. The line will then pick-up at that point along U.S. Hwy. 70-221 and runs along the highway South until it reaches the current City Limits.

This boundary will include all of Bradley Road and extensions to, and all accesses to, which lie on the West side of U.S. Hwy. 70/221.

#### SECTION VI.

The boundary will follow U.S. Hwy. 70 - 221 North to Valley Street and will then continue West following Valley Street. Valley Street runs directly into Reservoir Road. This line will then proceed along Valley Street/Reservoir Road including all properties along Hill Street, Reservoir Road Extension and Grove Street (S.R. 1212).

Following Grove Street West to the dead-end, the boundary will follow property lines West across the North boundary of lots on Greenlee Road, Old Greenlee Road, and Gilbert Street to the intersection of S.R. 1214 and S.R. 1197.

The line will then continue South along S.R. 1197 to Tate Street where the current City Limits lie.

#### SECTION VII.

The line will follow Lucky Street from Greenlee Road South Southwest to the dead-end and will then proceed along property lines South to the intersection of Southern Railroad tracks and S.R. 1196

The boundary will then continue South along the tracks until it reaches the current City limits.


#### SECTION VIII.

The Western boundary on this section will follow the West boundary of the City Shop property on its West side South until it reaches the ridgeline. The line will then follow the ridge peak South Southeast until it bends toward the highway. IT will then follow the natural curve of the ridge and end at U.S. Hwy. 221/N C. 226. The line on the North side will be Young's Creek and on the South side of the ridge. The South boundary on the ridge will run parallel to the creek.

This section will include all properties which lie on the South side of Young's Creek and to the North of the ridge.

Section 2. That a copy of this resolution shall be filed with the Marion City Clerk.

Adopted this the 3RD day of April, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Clerk



SELECTION OF ARCHITECTURAL FIRMS TO BE INTERVIEWED FOR CONSTRUCTION OF NEW FIRE STATION: The City Manager presented a list of eight architectural firms to Council for consideration to be interviewed concerning the construction of the new municipal fire station.

The City Manager stated that he would like to make one suggestion - that the City request that the architect who begins the project stays with the project until it is completed. A discussion followed.

Those members of Council present agreed to contact the following architectural firms:

1. CBSA, Bob Bush and Fred Abernathy Architects  
PO Box 1239, Hickory, North Carolina
2. J. Bertram King FAIA Architect  
351 Merrimon Ave., Asheville, North Carolina
3. Mr. Marvin Folger  
PO Box 2752, Morganton, North Carolina
4. SpacePlan Architecture  
39 Patton Ave, Asheville, North Carolina
5. Thompson, Gordon & Shook  
PO Drawer 1119, Morganton, North Carolina

It was decided to have a meeting on Tuesday night, April 10, 1990 at 6:00 P.M. for the purpose of meeting with the firms. It was also decided to allow twenty minutes for each firm to make a presentation to Council and representatives from the Marion Fire Department.

SEWER USE ORDINANCE: The City Manager presented the Sewer Use Ordinance to Council. Mr. Bill Hunnicutt, Chief Operator of the Waste Treatment Plant stated that the ordinance had been dictated by the State and that he felt that the ordinance would be something that the plant could operate with.

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

#### CITY OF MARION SEWER USE ORDINANCE

#### SECTION 1. GENERAL PROVISIONS

##### 1.1 Purpose and Policy

This Ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Marion, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the system.
- (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and
- (d) To provide for equitable distribution of the cost of the municipal wastewater system.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This ordinance shall apply to the City and to persons outside the City, who are, by contract of agreement with the City, Users of the City POTW. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this ordinance.

##### 1.2 Definitions and Abbreviations

- (a) Unless the context specifically indicates otherwise, the following terms



and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

- (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) Approval Authority. The Director of the Division of Environmental Management of the North Carolina Department of Environment, Health and Natural Resources.
- (3) Authorized Representative of Industrial User. An Authorized representative of an Industrial User may be: (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation; (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; (3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- (4) Biological Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of weight and concentration [milligrams per liter (mg/l)].
- (5) Building Sewer. A sewer conveying wastewater from the premises of a User to the POTW.
- (6) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standard.
- (7) Cooling Water. The water discharged from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.
- (8) Control Authority. The term "Control Authority" shall refer to the "Approval Authority", defined herein above; or the POTW Director of the City upon approval of the city's Pretreatment Program.
- (9) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.
- (10) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (11) Grab Sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (12) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks
- (13) Indirect Discharge. The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).
- (14) Industrial User. A source of Indirect Discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act. (33 U.S.C. 1342).
- (15) Interference. The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the POTW's NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (16) National Categorical Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.
- (17) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5



- (18) New Source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (16) National Categorical Pretreatment Standard or Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial users.
- (17) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.5.
- (18) New Source. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section of 307 (C) (33 U.S.C. 1317) Categorical Pretreatment Standards which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard
- (19) National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- (20) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (21) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (22) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (23) Pollutant Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (24) POTW Director. The City of Marion's POTW Director is the City Manager.
- (25) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).
- (26) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the Approval Authority in accordance with 40 CFR 403.11.
- (27) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.
- (28) Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey wastewaters to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, users of the City's POTW
- (29) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.



- (30) Shall is mandatory: May is permissive
- (31) Significant Industrial User. Any industrial User of the wastewater disposal system who (i) has a process wastewater flow of 50,000 gallons or more per average work day, or (ii) contributes more than 5% of any design or treatment capacity of the wastewater treatment plant receiving the discharge, or (iii) is required to meet a National Categorical Pretreatment Standard, or (iv) is found by the City, the Division of Environmental Management or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.
- (32) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.
- (33) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (34) Suspended Solids. The total suspended matter than floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (35) Superintendent. The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.
- (36) Toxic Pollutants. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307 (a) or other Acts.
- (37) User. Any person who contributes, causes or permits the contribution of wastewater into the City's POTW.
- (38) Wastewater. The liquid and water-carried industrial domestic wastes from dwellings, commercial building, industrial facilities, and institutions, together with may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (39) Waters of the State. All streams, lakes, ponds, marshes, water course, waterways, wells springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (40) Wastewater Contribution Permit. As set forth in Section 4.2 of this ordinance.

(b) The following abbreviations shall have the designated meanings:

- (1) BOD - Biochemical Oxygen Demand
- (2) CFR - Code of Federal Regulations
- (3) COD - Chemical Oxygen Demand
- (4) EPA - Environmental Protection Agency
- (5) l - Liter
- (6) mg - Milligrams
- (7) mg/l - Milligrams per liter.
- (8) NPDES - National Pollution Discharge Elimination System
- (9) SIC - Standard Industrial Classification.
- (10) SWDA - Solid Waste Disposal Act, 42 U.S.C 6901, et seq.
- (11) USC - United States Code.
- (12) TSS - Total Suspended Solids.
- (13) TKN - Total Kjeldahl Nitrogen

## SECTION 2 - REGULATIONS:

### 2.1 General Discharge Prohibitions.

No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all Users of a POTW whether or not the User is a Significant Industrial User or subject to any National, State, or local Pretreatment Standards or Requirements. A user may not contribute the following substances to any POTW.

- (a) Any liquids, solids, or gases which by reasons of their nature or



quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the State or EPA has notified the User is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 6.0, unless the POTW is specifically designed to accommodate such wastewater or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW

(d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repairs.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with such use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C, (104 degrees F) unless the POTW treatment plant is designed to accommodate such temperature.

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause Interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(k) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(l) Any wastewater which causes a hazard to human life or creates a public nuisance.

(m) Specific water usage limits are to be established for each water user and such limits to be set at time of application for service.



When the Superintendent determines that a User(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to Interference of POTW operation, the Superintendent shall: 1) Advise the User(s) of the potential impact of the contribution on the POTW; and 2) Develop effluent limitation(s) for such User to protect the POTW from Interference.

## 2.2 Federal Categorical Pretreatment Standards

Upon promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Ordinance for sources in that sub-category, shall immediately supersede the limitations imposed under this Ordinance. The Superintendent shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12.

## 2.3 Specific Pollutant Limitations

Unless authorized by a permit issued under Section 4.2 of this Ordinance no person shall discharge wastewater containing pollutants at levels which exceed the levels associated with domestic sewage. For the following parameters exceeding domestic sewage levels shall mean in excess of:

250	mg/l BOD
250	mg/l TSS
40	mg/l TKN
0.003	mg/l arsenic
0.003	mg/l cadmium
0.061	mg/l copper
0.041	mg/l cyanide
0.049	mg/l lead
0.0003	mg/l mercury
0.021	mg/l nickel
0.005	mg/l silver
0.05	mg/l total chromium
0.175	mg/l zinc

Domestic sewage levels for the above pollutants and those not listed shall be determined by the headworks analysis and technically based local limits with rights of revision as provided for in Section 2.5 of this Ordinance.

## 2.4 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Ordinance.

## 2.5 Right of Revision

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation.

## 2.6 Excessive Discharge

No User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant specific limitation developed by the City or State. The use of dilution to achieve compliance in any respect is considered a violation under permit regulations.

## 2.7 Accidental Discharges

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing User's shall complete such a plan by January 1, 1991. No User who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions.

Written Notice Within five (5) days following an accidental discharge; the User shall submit to the Superintendent a detailed written report describing the cause



of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law

Notice of Employees: A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure

### SECTION 3 - FEES

#### 3.1 Purpose

It is the purpose of this chapter is to provide for the recovery of costs from Users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth the City's Schedule of Charges And Fees.

#### 3.2 User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow
- (c) The City Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the Schedule of Charges And Fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

#### 3.3 Pretreatment Program Administration Charges

The Schedule of Charges and Fees adopted by the City may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing accidental discharge procedures and construction plans and specifications;
- (d) permitting
- (e) other fees as the City may deem necessary to carry out the requirements of the pretreatment program.

### SECTION 4 - ADMINISTRATION

#### 4.1 Wastewater Discharges

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City of Marion.

#### 4.2 Wastewater Contribution Permits

All Significant Industrial Users shall obtain a Significant Industrial User permit prior to the commencement of discharge to the POTW. Existing Industrial Users shall obtain a Significant Industrial User permit within 180 days of receiving notification of the POTW Director's determination. Industrial Users who do not fit the Significant Industrial User criteria may at the discretion of the POTW Director be required to obtain a wastewater contribution permit for non-significant industrial users.

##### (a) Significant Industrial User Determination

All persons proposing to discharge non-domestic wastewater, or purposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a Significant Industrial User



determination. If the POTW Director determines or suspects that the proposed discharge fits the Significant Industrial User criteria he will require that a Significant Industrial User permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a Significant Industrial User Permit shall compete and file with the City, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the Schedule of Charges And Fees. Significant Industrial Users shall apply for a Significant Industrial User Permit within 90 days after notification of the POTW Director's determination in 4.2 (a) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Section 2 of this Ordinance and any of the priority pollutants which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- (4) Time and duration of contribution;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connection, and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (8) Where known, the nature and concentrations of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;
- (9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the User will provide such additional pretreatment;
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw material processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application;

The POTW Director will evaluate the data furnished by the user and may require additional information

(c) Application Review and Evaluation

- (1) The POTW director is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(d) Tentative Determination and Draft Permit

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the Significant Industrial User, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the Significant Industrial User permit.



(2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determination shall be made in writing:

- (i) proposed discharge limitations for those pollutants proposed to be limited;
- (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
- (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the City's general permit conditions into a Significant Industrial User permit.

(e) Permit Synopsis

A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant, the Approval Authority and made available to the public upon request. The contents of such fact sheets shall include at least the following information:

(1) a sketch or detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.

(2) a quantitative description of the discharge described in the application which includes at least the following:

- (i) the rate or frequency of the proposed discharge: if the discharge is continuous, the average daily flow;
- (ii) the actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and
- (iii) the basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(f) Hearings

(1) Adjudicatory Hearings. An applicant whose permit is denied, or is granted subject to condition he deems unacceptable, shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contended, to the POTW Director within 30 days following receipt of the Significant Industrial User permit. Unless such demand is made, the decision on the application shall be final and binding.

(2) Appeal Hearings. Any decision of a hearing officer made as a result of an adjudicatory hearing held under paragraph (1) above may be appealed, to the City Council upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with the local hearing procedure.

(3) Any person against whom a final order or decision of the City Council is entered pursuant to the hearing conducted under paragraph (2) above may appeal from the order or decision of the order within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, to the Superior Court of McDowell County. (Zoning Ordinance, Article XII, Board of Adjustment, Section 1205). Upon such appeal the City shall send a transcript certified by the City Council of all testimony and exhibits introduced before the Council, the order of decision, and the notice of appeal to the Superior Court.

(g) Final Action on Significant Industrial User Permit Applications.

(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The director is authorized to:

- (i) issue a Significant Industrial User permit containing such conditions as are necessary to effectuate the purposes of this ordinances and N.C G.S. 143-215.1;
- (ii) issue a Significant Industrial User permit containing time



schedules for achieving compliance with applicable pretreatment standards and requirements.

(iii) modify any permit upon not less than 60 days notice and pursuant to section 4.2(h) of this ordinance.

(iv) revoke any permit pursuant to section 5.1 of this ordinance;

(v) suspend a permit pursuant to section 5.1 of this ordinance;

(vi) deny a permit application when in the opinion POTW Director such discharge may cause or contribute to pass-through or an upset of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

#### (h) Permit Modification

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

(i) modifications of the monitoring program contained in the permit

(ii) changes in the ownership of the discharge when no other change in the permit is indicated,

(iii) a single modification of any compliance schedule not in excess of four months,

(iv) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(2) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit as required by 4.2(b), the User shall apply for a Wastewater Contribution Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60 day notice required by G.S. 143-215.1(b) for modifications.

#### (i) Permit Conditions

The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C G.S. 143-215.1 such conditions shall include but are not limited to the following:

(1) a statement of duration (in no case more than five years);

(2) a statement of non-transferability;

(3) applicable effluent limits based on categorical standards or local limits or both;

(4) applicable monitoring and reporting requirements;

(5) Notification requirements for slug discharges as defined by 40 CFR Part 403.5(b) a; and,

(6) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

#### (j) Permits Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The User shall apply for permit reissuance a minimum of 180 days prior to the expiration of the User's existing permit.

#### (k) Permit Transfer

Wastewater Discharge Permits are issued to a specific User for a specific operation. A wastewater discharge permit shall not be reassigned or



transferred or sold to a new owner, new User, different premises, or a new or change operation.

#### 4.3 Monitoring Facilities

The City shall require to be provided and operated at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's Premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notice by the City.

#### 4.4 Inspection and Sampling

The City shall inspect the facilities of any User to ascertain where the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The City, Approval Authority and EPA shall have the right to set up on the User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, Approval Authority and EPA will be permitted to enter, without delay, for purposes of performing their specific responsibilities.

#### 4.6 Pretreatment

Users shall provide necessary wastewater treatment as required to comply with this Ordinance, wastewater contribution permits issued under Section 4.2 of this Ordinance and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the POTW Director. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the POTW Director before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the POTW Director prior to the user's initiation of the changes.

The City shall annually publish in the McDowell News a list of the Users which were not in compliance with any Pretreatment Requirements or Standards at least once during the twelve previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve months.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the Approval Authority and EPA upon request.

#### 4.7 Confidential Information

Information and data on a User obtained from reports, questionnaires, permit applications, permit and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, process or methods of production entitled to protection as trade secrets of the User.

When requested by the person furnishing a report, the portions of a report



which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or Pretreatment Programs; provided, however that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten-day notification is given to the User.

## SECTION 5 - ENFORCEMENT

### 5.1 Administrative Remedies

#### (a) Notification of Violation

Whenever the POTW Director finds that any industrial user has violated or is violating this Ordinance, wastewater contributor permit, or any prohibition, limitation or requirements contained therein, the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations of liability for any violations occurring before or after receipt of the Notice of Violation.

#### (b) Consent Orders

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharge to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as an administrative order issued pursuant to Section 5.1 (d) below

#### (c) Show Cause Hearing

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this Ordinance or is in noncompliance with a wastewater contributor permit to show cause why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate. POTW Director final decision shall be to either proceed with the proposed enforcement action or to modify the action. Such modification may include but is not limited to the issuance of any order to the industrial user directing that, following a specified time period, the sewer service is discontinued unless adequate treatment facilities, devices or other related appurtenance shall have appurtenance shall have been installed and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

#### (d) Administrative Orders

When the POTW Director finds that discharge violates the prohibitions or effluent limitations of this ordinance, or those contained in any permit issued hereunder, the POTW Director may issue an order to cease and desist, and direct those persons in noncompliance to:

- 1) Comply forthwith
- 2) Comply in accordance with a compliance time schedule set forth in the order
- 3) Take appropriate remedial or preventative action in the event of a continuing or threatened violation.

#### (e) Emergency Suspensions



The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the Notice of Suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure of the person to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measure taken to prevent any future occurrence of the POTW Director prior to the date of the above-described hearing.

(f) Termination of Permit

Any user who violates the following conditions of this ordinance, or applicable State and Federal regulations, is subject to having its permit terminated:

- 1) Failure to factually report the wastewater constituents and characteristic of this discharge;
- 2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- 3) Refusal or reasonable access to the User's premises for the purpose of inspection or monitoring; or,
- 4) Violations of conditions of the permit.

5.2 Civil Penalties

Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, shall be fined up to two thousand, five hundred dollars (\$2,500) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. Such assessments may be added to the user's next scheduled sewer service charges and the POTW shall have such remedies for the collection of such assessments as it has for collection of other service charges.

5.3 Judicial Remedies

If any person discharges sewage, industrial wastes or other wastes into the wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the POTW Director, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the General Court of Justice for McDowell County.

(a) Criminal Violations

Any user who is found to have failed to comply with any provision of this Ordinance, or the orders, rules, regulations and permits issued hereunder, shall be, upon conviction, guilty of a misdemeanor, punishable by a fine or imprisonment or both as provided in NCGS 14-4. NOTE: At present, NCGS 14-4 also a fine of up to fifty dollars and imprisonment up to 30 days.

(b) Penalties for Falsifying Information

Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both.

(c) Injunctive Relief

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the POTW Director, through the City Attorney, may petition the General Court of Justice for the issuance



of a preliminary or permanent injunction, or both as may be appropriate which restrains or compels the activities in question. In the event the POTW chooses to correct the violation itself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation. The POTW shall have such remedies for the collection of such costs as it has for the collection or other sewer service charges.

### 5.3 Other Remedies

#### (a) Annual Publication or Reportable Noncompliance

At least annually, the POTW Director will publish in the largest daily newspaper circulated in the service area, a list of these industrial users which are found to be in significant violation, as defined by Section .0903(b)(10) of the NRCO regulations, with this Ordinance or any order or permit issued hereunder, during the 12 month period since the previous publication.

#### (b) Performance Bonds

The POTW Director may refuse to reissue a permit to any industrial user which has failed to comply with the provisions of this Ordinance or any order or previous permit issued hereunder unless such user first files with it, a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the POTW Director to be necessary to achieve consistent compliance.

#### (c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated consistent compliance.

#### (d) Public Nuisance

Any violation of the prohibitions or effluent limitations of this ordinance or contained in a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate City code governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating, or remedying said nuisance.

### 6.0 Upset Provision

Any discharge which experiences an upset in operations which places the dischargers in a temporary state of noncompliance with this Chapter shall inform the POTW Director thereof immediately following first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger within five (5) days. The report shall specify:

(a) Description of the upset, the cause thereof and the upset's expected impact on the discharger's compliance status;

(b) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to occur;

(c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented and verified operating upset, demonstrated as required by 40 CFR 403.16(c) shall constitute an affirmative defense to any enforcement action brought by the POTW Director against the discharger for any noncompliance with this Ordinance, or an order or permit issued hereunder, which arises out of violations alleged to have occurred during the period of the upset.

### SECTION 7 - SEVERABILITY

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remained provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

### SECTION 8 - CONFLICT

All other Ordinances and parts of other Ordinance inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such



inconsistency or conflict.


SECTION 9 - EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its adoption.

ADOPTED this the 3rd day of April, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
Earl Danfels, City Manager/Clerk

POLICE DEPARTMENT - PERSONNEL CHANGES: Police Chief Gilsdorf stated that he would like to present three proposals to Council concerning changes within the Police Department:

1. Rank Structure: The Police Chief stated that he would like to change the rank of Sergeant to Lieutenant. He stated that there would be no change in rate of pay, only in name. He stated that it would be especially beneficial to the department when working with other departments. He stated that the Sheriff's department used the rank of Lieutenant and when the police department was working with them, the Lieutenants could not be supervised by the Sergeants.

2. One Step Increases for Certification: The Police Chief stated that he would like to implement a program that when the police officers received certifications in various fields to increase their pay on a one step basis. He stated that he hoped that this would help to decrease the high rate of turn-over in the department.

3. Combination of Career Steps and Education: The Police Chief stated that he would like to have pay increases for a combination of education and experience. He stated that the Police Committee had asked for more information on this item and it would be forthcoming.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the personnel changes as outlined above.

INDUSTRIAL/COMMERCIAL CONTAINER SERVICE AND TIRE PICK-UP: The City Manager stated that he had been attending numerous meetings concerning solid waste and recycling. He stated that in the near future, changes would have to be made in McDowell County.

The City Manager stated that he would like to propose that this year, Council initiate a recycling program. He stated that he would like to have a program in place for handling newspapers, three colors of glass and aluminum. In addition, he would like for the City to offer pick-up of these items on a once a week basis at the curb.

The City Manager stated that in addition, he would like to propose that by July 1, 1990, the City discontinue container service to commercial businesses and industry. He stated that the City would pick-up three, thirty-five gallon containers twice per week. He stated that in addition, the City could offer to pick up cardboard boxes if they were broken down, tied and dry. He stated that this item would be on a call basis.

The City Manager stated that the County had entered into an agreement with a private firm to remove tires. He stated that a charge would be made to the persons wishing to dispose of tires at the landfill. He stated that he would like to propose that the City no longer pick-up tires and allow tire dealers to contract directly with McDowell County for disposal of the tires.

Councilman Ayers stated that he could not see the point in picking up cardboard if the City was going to get out of the business.

Mayor Clark asked if there was a market for cardboard. Mr. Jim Kalkwarf of Garbage Disposal Services stated that there was a market for cardboard. He stated that at this time, GDS was building a recycling center. He stated that the center would handle items such as: cardboard, newspapers, twenty weight paper, plastic milk containers, three color glass, some types of plastic garbage bags, waste oils and batteries.

Mayor Clark asked if the downtown merchants had a lot of cardboard to dispose of. Mr. David Tilson stated that most of the larger chain stores had bailers in house



which broke the boxes down. He stated that a bailer would not be beneficial for the smaller businesses.

Ms. Freddie Killough asked how big a cardboard bailer was. Mr. Jim Kalkwarf stated that the bailer would be determined by the pound weight of the bail once broken down. He stated that it would range in size from three hundred to two thousand pound bails. He stated that the bailer was tall rather than wide.

The City Manager stated that in addition to the recycling efforts, McDowell County was one of the few counties which did not charge a tipping fee. He explained that a tipping fee was a charge on the amount of garbage taken into the landfill. Mr. Kalkwarf stated that Burke County charged \$16.00 per ton tipping fee. He stated that the large container trucks held approximately eight tons per load.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to discontinue container service including cardboard pick-up as of July 1, 1990, and to discontinue tire pick-up as of the same date.

#### REPORTS:

1. Wheeler Construction Company - Final Payment: The City Manager stated that the City had to patch a pothole at the entrance of B & J Chevrolet at a cost to the City of \$868.00. He stated that this amount had been subtracted from the retainer of Wheeler Construction Company. He asked if Council would agree to pay Wheeler Construction in full so the City could file for the remainder of funds from the Federal Grant. Council was in agreement to hold the funds from the retainer and forward the remaining amount to Wheeler Construction. The City Manager stated that Mr. Wheeler had stated that he would like to have the full amount of money and he may come to a Council meeting to discuss the matter at a later date.

2. COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he had been asked when the curbing would be in place behind the Post Office on Garden Street. He was advised that City crews were working on the project at this time.

Councilman Ayers stated that he had received a complaint concerning a pothole on Clairmont Street that needed to be patched.

Councilman Ayers stated that he had received several calls concerning a house at the end of South Main Street which was in need of repairs. He stated that he would like to see if the owner could be contacted. Councilman Little stated that he had also received a similar complaint about a house on East Court Street beside the bakery.

ADJOURNMENT: Upon a motion by Councilman Ayers, 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

April 10, 1990

The City Council for the City of Marion met in Special Session on Tuesday night, April 10, 1990 at 6:00 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; Robert Parker, Personnel Director; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Representatives from the following architectural firms:



CBSA - Bob Bush & Fred Abernathy Arch.  
Hickory, North Carolina

J. Bertram King F A I.A Arch.  
Asheville, North Carolina

SpacePlan  
Asheville, North Carolina

Marvin Folger  
Morganton, North Carolina

Thompson, Gordon & Shook  
Morganton, North Carolina

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to interview architectural firms for the proposed municipal building.

Each architectural firm, in turn, made an approximate twenty minute presentation to Council. During the presentations, Council asked questions to each firm.

Following the last interview, Council decided to delay any action until the next regular meeting of Council on April 17, 1990.

There being no further business, the meeting was adjourned.

  
J. Earl Daniels, City Manager/Clerk

  
A. Everette Clark, Mayor

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

April 17, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, April 17, 1990 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; LuAnn Ellis, Secretary; Alvin Callahan, Building Inspector; Lovina Smith, Zoning Administrator; Nora Arrowood, Police Department; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Ms. Freddie Killough, Director, Downtown Business Association; Mr. Woody Killough, Killough's Music & Loan; Mr. Jim Neal, Marion Fire Department; Mr. J.J. Laughridge, Marion Fire Department; Mr. Chuck Abernathy, County Manager; Mr. Bill Kehler, Kehler's Food; Ms. Kay Sinclair, Westwood Village; Ms. Evaneline Bates, Westwood Village; Mr. William Bates, Westwood Village; Mr. Ray Miller, Westwood Village; Mr. Clarence Glenn, Westwood Village; Mr. David Tilson, Tilson Sanitation; Mr. Gene Cable, Tilson Sanitation; Mr. Dean Lunsford, Morganton, North Carolina; Mr. Mike Fullenwider, Kentucky Fried Chicken; Mr. Jeff Allison, Kentucky Fried Chicken; Mr. Oscar Gentry, Kwik Mart; Mr. John Lewis, Main Street Exxon; Mr. Carroll Parker, City Tire & Recapping; Mr. Steve Dalton, In & Out; Mr. Jim Segars, Tainters Drug Store; Mr. Harry Patton, Drug Rite; Mr. John Karas, McDonalds; Mr. & Mrs. Bill Smith and Mr. Tommy McMahan, Med Park Pharmacy.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the April 3 and April 10, 1990 meetings.

**PRIVATE ROAD CONDITIONS - STREET BEHIND CROSSBOW RESTAURANT -MS. KAY SINCLAIR:** Ms. Kay Sinclair appeared before Council concerning the private access roads behind Lady Marian Plaza and the Crossbow International Restaurant which leads into the area known as Westwood Village. Ms. Sinclair stated that the condition of the road was terrible. She stated that when trucks made deliveries to the restaurant, the road was blocked off and the other entrance had been closed for three years due to the falling of the retaining wall behind the shopping center.

Ms. Sinclair stated that she would like for the City to help in any way possible to get the road in driving condition. She stated that several elderly persons



with heart conditions lives in the Westwood Village area and an ambulance or other emergency vehicle would have a hard time getting into the area because of the condition of the road.

The City Manager stated that the road is private property and belongs to National Community Center. He stated that he had written to the company concerning the condition of the road but had not received a response.

Councilman Ayers stated that he also leased property from the same corporation and had been advised that the company was in receivership. He stated that he had tried to contact the present owner through the bankruptcy court, however, he had not received a response. He stated that it may be best to see if the company had been sold and try to work with the new owners of the company.

Ms. Sinclair asked if Council could help. Mayor Clark stated that the City could not spend tax revenue on private property. He stated that if the road could be dedicated to the City for maintenance, the City would be able to help.

Councilman Little stated that the problem with trying to help the residents at this time was the legal condition of the owner. He stated that if the company was in bankruptcy or in receivership, it would be best to wait until a new owner could be contacted.

The residents thanked Council for their help in the matter. The City Manager was directed to follow up on his letter to the property owners.

**TAX REFUND - KEITH D. & ELIZABETH DILLS:** The City Manager presented a memorandum from Claudia Shehan, Tax Collector to Council requesting a tax refund in the amount of \$27.09 to Mr. Keith D. & Elizabeth Dills. The memorandum stated that Mr. Dills trailer had been billed in both the personal and real property valuations.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to refund Mr. Keith D. & Elizabeth Dills in the amount of \$27.09 due to an incorrect billing.

**HABITAT FOR HUMANITY - REQUEST TO BORROW CHAIRS/TABLES:** The City Manager stated that Habitat for Humanity had requested to borrow chairs and tables from the Marion Community Building. He stated that the tables and chairs had not been loaned previously because they were in use with the building.

The City Manager stated that at this time, there were no extra tables, however, there were extra folding chairs which were stored in the basement of the building.

Councilman Little asked if the chairs were marked so they could be identified as belonging to the City. He was advised that the chairs should be stamped with a Community Building stamp and should have a fixed asset tag on each chair.

Mayor Clark asked if a deposit should be required if the chairs were loaned which could be retained if the items were not returned. Councilman Little stated that he felt that it would be too time consuming to have someone checking chairs in and out.

A discussion continued.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously that any non-profit organization would be allowed to borrow the chairs if picked up and returned between the hours of eight and four and other requests would be handled on an individual basis.

**MARION COUNCIL OF GARDEN CLUBS - REQUEST:** The City Manager presented a letter to Council from Mrs. Nedra Greenlee, Secretary of the Marion Council of Garden Clubs which stated that the club wished to plant forsythia bushes at the Mini Park. The letter also stated that a resident of Garden Street would be willing to donate two rather large bushes to the City to be placed in the Mini Park if the bushes could be removed by City forces.

Councilman Little asked if the City owned the Mini Park. He was advised that the park belonged to DOT, however, the City had helped maintain the area.

A discussion followed.

Councilman Little stated that he would like to refer the matter to the Street Committee. Council was in agreement. Council also agreed to let the Street Committee make a decision on whether or not to allow City forces to remove the forsythia bushes from private property to the Mini Park.

**PUBLIC HEARING - TCI CABLEVISION - RESOLUTION:** The City Manager opened a Public Hearing for the purpose of adopting a Resolution transferring the name of TCI Cablevision to InterMedia Partners of Carolina, L.P.



No one was present concerning the Public Hearing.

Councilman Ayers made a motion to accept the following Resolution. The motion was seconded by Councilman Stronach.

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

# RESOLUTION

## A RESOLUTION OF MARION CITY COUNCIL AUTHORIZING THE TRANSFER OF A CABLE TELEVISION FRANCHISE FROM TCI CABLEVISION OF NORTH CAROLINA, INC TO INTERMEDIA PARTNERS OF CAROLINA, L.P.

WHEREAS, pursuant to a Resolution dated October 5, 1965, TCI Cablevision of North Carolina, Inc. ("TCI") was granted a franchise to operate a cable television system (the "Franchise") by Grantor;

WHEREAS, Grantor has been advised by TCI that it has entered into an agreement to transfer substantially all of its assets, including the Franchise, to InterMedia Partners of Carolina, L.P. ("InterMedia");

WHEREAS, InterMedia is a limited partnership, the general partner of which is InterMedia Partners ("IP");

WHEREAS, TCI and InterMedia have applied to Grantor for a transfer of the Franchise to InterMedia Partners of Carolina, L.P.;

WHEREAS, it is necessary and appropriate that approval of said transfer be granted;

NOW, THEREFORE, Be it Resolved by the City Council of Marion, North Carolina, as follows:

Section 1. Grantor hereby approves of and consents to the transfer and assignment of the Franchise to InterMedia Partners of Carolina, L.P.

Section 2. The consents and approvals hereby granted are given pursuant to the Franchise and are permitted by law. The consents and approvals hereby given do not constitute and shall not be construed to constitute a waiver of any obligations of InterMedia under the Franchise.

Section 3. Grantor hereby affirms that the Franchise is valid and in full force and effect and is for a current term, without considering any possible extension, ending at the same time as the existing franchise agreement with TCI.

Section 4. InterMedia may, during the remaining Franchise term, transfer and assign the Franchise to any entity in which IP is a general partner or in which IP is the controlling stockholder, upon reasonable notice to Grantor, describing the entity in sufficient detail to satisfy Grantor that the assignment meets the requirements of Federal and State law, and this Section 4

Section 5. This Resolution shall become effective and continue and remain in effect immediately upon closing of the sale of the cable system to InterMedia Partners of Carolina, L.P., and delivery to the city of a written acceptance by InterMedia Partners of Carolina, L.P. of all the terms and conditions of the Cable Television Franchise Ordinance

The foregoing Resolution was duly passed at the meeting of the City Council of Marion, North Carolina held on the 17th day of April, 1990.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

The above Resolution and its entire terms are agreed to by:  
TCI CABLEVISION OF NORTH CAROLINA, INC.



## INTERMEDIA PARTNERS OF CAROLINA, L.P.

Councilman Little stated that he voted against the motion because he was opposed to the rates of the cable service in this area. He stated that he knew Council did not control the rates any longer, he was just opposed to them.

The City Manager stated that he had received a copy of an audit from the firm that was taking over the local operation and had asked that Council be provided with an annual audit of the local operation

There being no further business relating to cable television, the Public Hearing was closed

CONTAINER SERVICE - COMPLAINT: The City Manager stated that he had received several complaints concerning the decision at the last meeting to discontinue container service by the City and have the businesses contract directly with a private hauler.

Mr. Jim Segars stated that the business owners present had experienced frustration for the discontinuation of what they considered a basic service to the residents of the City. He stated that the businesses paid taxes and they felt that they should be allowed to receive services for the money.

The City Manager stated that with the passing of Senate Bill 111, the amount of waste material placed in landfills in the state had to be reduced by twenty-five percent in the next three years. He stated that the only way to reduce the amount of trash is to implement a recycling program. He stated that at this time, there was a market for aluminium, glass, newspapers and cardboard and later, there would be a market for plastic milk and soda containers. He stated that the City would add a recycling service when the container service was discontinued.

Councilman Ayers stated that the decision was only the beginning of other changes to come. He stated that at this time, the City needed a new packer truck if they were to stay in the container business. He stated that the merchants would have to pay either way - a tax increase or to a private hauler. He stated that the local taxes as well as garbage expenses were deductible as business expenses at the end of each year.

Mr. Bill Smith stated that he had a warehouse behind his business full of cardboard that he could not give away to any one. He stated that he felt that the City had not thought through the large annexations they had approved in the last year and were not able to afford to offer the services. He stated that there was no reason to be inside the City limits now

The City Manager stated that as of today, market prices for recycleables were as follows: baled cardboard - \$7.50 per ton; three colors of glass - one cent per pound; and aluminum - seven cents per ton. He stated that it cost \$1.10 per mile transportation costs to dispose of old newspapers.

The City Manager stated that there was no possible way to <sup>PLEASE NO</sup> everyone. He stated that police and fire services were necessary services provided from tax revenues as well as street lighting street cleaning, snow removal, etc. He stated that at this time, few cities in the state collected residential garbage twice a week at the backdoor without a charge to the resident. He stated that the city's revenues would have to be raised or a service reduced.

Mr. Segars stated that he would rather have a basic service rather than making the downtown more attractive.

Councilman Little stated that he felt that it was unfair to penalize the elderly taxpayers so container service could be continued. He stated that with the exception of pasteboard, most businesses could get by with three thirty-five gallon cans

Mr. Segars stated that the decision was made before the merchants had any input into the situation.

Councilman Little stated that the business owners would have to be charged for garbage collection by a private hauler or raise taxes to allow the City to continue to collect the garbage. Mr. Johnny Freshour stated that if taxes needed to be increased to allow a basic service to be continued, then taxes should be raised.

Mr. Bill Smith stated that if the businesses went to three cans, there would be eighteen cans to empty rather than one container. Mr. Theodore Brooks stated that there would be more trash around town if everyone used cans.

Mayor Clark asked if an arrangement could be made with the private haulers to



continue the service as it was now, with the City paying for two pick-ups. The City Manager stated that it was possible, but he would not recommend contracting.

Mayor Clark stated that the situation needed to be looked at and changed, he stated that they felt that it would be best to offer the same service to both businesses and residents.

Mr. Bill Kehler stated that he did not think that the services to businesses and residents should not be compared, that the needs for each were totally different. He stated that Maple Leaf Lanes came into the City with the last annexation, he stated that they paid taxes and the only service they received was garbage collection.

The City Manager stated that a lot of containers were shared by as many as four or five businesses. He stated that in cases of this nature, it would not cost that much to share the cost of having the container emptied. He stated that it would be unfair to have a tax increase for garbage pick-up.

Mr. Bill Kehler stated that a business would always increase prices rather than discontinue a service.

The discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to hold a Public Hearing to discuss the container situation at the next regular meeting to be held on May 8, 1990.

**FLOOD ORDINANCE - REQUEST FOR VARIANCE - FULLENWIDER ENTERPRISES:** Mrs. Lovina Smith stated that she had received a request from Fullenwider Enterprises for a variance to the City Flood Ordinance.

Mrs. Smith stated that Fullenwider Enterprises proposed to locate a Kentucky Fried Chicken on Hwy 70 West between Darrell Ford and The McDowell House. She stated that in order for a building permit to be issued, the property would have to be built up to meet the standards of the Flood Ordinance.

Mr. Mike Fullenwider stated that the flood zone was approximately fourteen feet above the base of the McDowell House. He stated that he would like to be granted a variance which would allow him to construct the building without having to comply with the flood zone.

Mr. Penn Dameron stated that the Flood Ordinance was a part of a National Program which is required. He stated that he had been told that state officials frown upon variances. He stated that a variance could possibly be granted under the conditions.

Councilman Cross asked if the City would incur any expenses in the matter. Mr. Dameron stated that the City would not have any expenses, however, whatever is done would be subject to review by FEMA.

Mr. Dameron stated that there were several options rather than granting a variance to the property.

Mr. Fullenwider stated that he could build a flood proof building which would be an option acceptable, however, it would be comparable to a submarine.

Councilman Stronach stated that he would be in favor of the variance, however, he was concerned about the regulations of FEMA.

The City Manager stated that at the time the Ordinance was adopted, the City had been told that any action taken which was directly against the ordinance would result in the City losing flood insurance and not being eligible for any type of federal funding.

Mr. Dameron stated that he had understood that there had only been one variance granted in the state.

Councilman Ayers asked Mr. Dameron if the variance was granted did he know of any reason the flood insurance would be canceled or if the funding would be lost. Mr. Dameron stated that he could not see any reason for either, but he could not say for sure what might happen.

Councilman Little stated that he could determine a distinction between this property and other property in the same area since this property was located between two existing buildings.

Councilman Tyler asked if the building would have to be located above the level of Darrell Ford. He was advised that it would be above the level of that building.

Councilman Stronach stated that he felt that it could be a hardship case and would be in favor of the variance.



The City Manager stated that the variance could be granted contingent upon the approval of FEMA

Councilman Cross asked if there were any plans for construction at this time. Mr. Fullenwider stated that he hoped to have the business open by June

Councilman Ayers asked if Council approved the variance could Mr. Fullenwider begin construction. He was advised that a permit could not be issued until FEMA approved the variance.

Mr. Fullenwider stated that he would be willing to bear the expense if the work could be done. He stated that at this point, he could loose the Marion franchise. The discussion continued.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to table the matter until the next meeting

**DOT - BRIDGE REPLACEMENT PROGRAM:** The City Manager stated that the replacement of the Clairmont Street bridge was on the list for the Department of Transportation TIP Program for this year. He stated that the City would be billed for approximately twenty percent of the total cost of the replacement.

Mr. Earl McEntire of Thompson, Gordon & Shook appeared before Council and stated that his firm would like to be considered for the project. Mr. McEntire stated that bids for this project would not have to be taken. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to proceed with the project and to allow the firm of Thompson, Gordon & Shook to oversee the project.

**SELECTION OF ARCHITECTURAL FIRM - MUNICIPAL FIRE STATION:** The City Manager presented Council with a form listing each architectural firm interviewed for the proposed municipal fire station. He asked that Council number each firm from one to five with five being given to the firm most desirable to design the building and one being the firm least desirable to design the building. The City Manager stated that a form had been given to the fire department and Mr. Jim Neal had the tally sheet from their representatives

The sheets were collected and votes were as follows:

<u>Firm</u>	<u>No. Points</u>
CBSA - Bob Bush & Fred Abernathy Asheville, North Carolina	26
J. Bertram King Asheville, North Carolina	30
Mr. Marvin Folger Morganton, North Carolina	8
SpacePlan Architecture Asheville, North Carolina	26
Thompson, Gordon & Shook Morganton, North Carolina	11

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to contract with Mr. J. Bertram King for the architectural work to be done on the new municipal fire station.

**BUILDING CODE ORDINANCE:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

**AN ORDINANCE ESTABLISHING FEES FOR BUILDING PERMITS, LOCATION PERMITS, ZONING PERMITS, SWIMMING POOL PERMITS, SIGN PERMITS, MISCELLANEOUS PERMITS, AND CERTIFICATES OF OCCUPANCY**

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

**Section I. Building Permits.** Building permits fees for all new buildings and additions to existing buildings constructed inside the City Limits shall be based on the total number of square feet in the building at rates as follow:

<u>AREA</u>	<u>FEE</u>
200 sq. ft. to 10,000 sq. ft.....	\$.05 per sq. ft.
10,001 sq. ft. to 20,000 sq. ft....	\$.03 per sq. ft.
20,001 sq. ft. and over.....	\$.01 per sq. ft.

Minimum Permit Fee	\$10.00
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The Building Permit fee will cover construction of the building only. The electrical, plumbing, mechanical and insulation permits shall be purchased from the McDowell County Building Inspection Department.

**Section 2. Location Permits.** Permits for the location of mobile homes and/or other buildings shall be as follows:

TYPE	FEE
Single Wide Mobile Home.....	\$10.00
Double Wide Mobile Home.....	\$15.00
Triple Wide Mobile Home.....	\$20.00
Other Buildings.....	\$10.00

**Section 3. Zoning Permits.** The Building Permit, Sign Permit, or Swimming Pool Permit shall serve as a Zoning Permit. Where a Building Permit, Sign Permit, or Swimming Pool Permit is not required, the Zoning Permit shall be \$15.00.

**Section 4. Swimming Pools Permits.** This section applies to swimming pools assembled or constructed on site. All pools, other than small children wading pools, must be fenced.

TYPE	FEE
Standard Above Ground Pool.....	\$30.00
Standard Below Ground Pool.....	\$45.00

**Section 5. Renovation and/or Remodeling Permits.** Renovation and/or remodeling permits will be required for any work cost over \$100.00. The fee will be as follows:

ESTIMATED COST OF RENOVATION	FEE
\$ 101.00 to \$ 1,500.00	\$10.00
\$1,501.00 to \$ 3,000.00	\$12.50
\$3,001.00 to \$ 5,000.00	\$15.00
\$5,001.00 to \$ 8,000.00	\$17.50
\$8,001.00 to \$10,000.00	\$20.00
Over \$10,000.00	\$ 2.00 per \$1,000.00

**Section 6. Sign Permits.** This section will apply to both advertising signs and billboards, on-premises and off-premises. The size and location of signs shall be in accordance with City Ordinances. Permits to locate or maintain a spectacular sign shall be good for one (1) year. The sign permit fees shall be as follows:

SIGN SIZE AND/OR TYPE	FEE
0 TO 32 square feet	\$10.00
33 to 100 square feet	\$15.00
101 to 150 square feet	\$20.00
151 to 300 square feet	\$30.00
Over 300 square feet	\$35.00
Spectacular Signs	\$10.00

All signs located within the City of Marion shall be maintained in good condition and appearance by the owners of said signs. Upon written notice from the City Building Inspector, the owner of any sign in need of repair, shall see that such sign is repaired or removed within ten (10) days of such notice.

No permit or fee will be required for non-illuminated "For Sale" or "For Rent" signs not exceeding four (4) square feet in area.

An annual renewal fee will be charged per off-premise advertising sign. The renewal fee will be due on April 15th of each year. The fee will be as follows:

SIGN SIZE	FEE
0 TO 300 square feet	\$10.00
Over 300 square feet	\$15.00

**Section 7. MISCELLANEOUS PERMITS.**

**Roofing Permits:** Permits for roofings will be based on the number of squares of roofing material (shingles, rolls, etc.) Charges will be as follows:

Charge Per Square.....	\$ 1.00
Minimum Permit.....	\$ 10.00

**Section 8. Certificate of Occupancy.** Certificate of Occupancy fees inside the City Limits shall be \$2.00.

**Section 9. Plumbing, Electrical, Mechanical, and Insulation Permits.** Plumbing, electrical, mechanical, and insulation permits shall be issued by the McDowell County Inspector. All persons, firms, or corporations undertaking any work inside



the City Limits, requiring such permits, must first secure the necessary permits from the McDowell County Inspector.

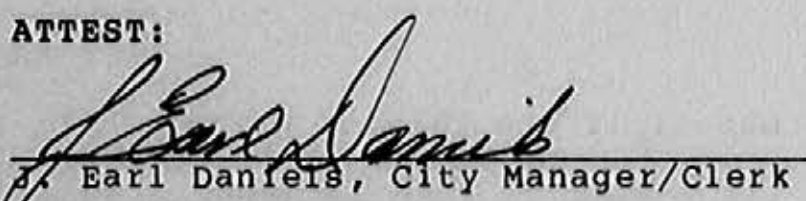
Section 10. The ordinance entitled AN ORDINANCE ESTABLISHING FEES FOR BUILDING PERMITS, LOCATION PERMITS, ZONING PERMITS, SWIMMING POOL PERMITS, SIGN PERMITS, AND CERTIFICATES OF OCCUPANCY adopted by the City Council on September 18, 1989 is hereby rescinded.

Section 11. EFFECTIVE DATE. This ordinance shall be in full force and effect upon its adoption.

ADOPTED THIS THE 17th day of April, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
Earl Danfels, City Manager/Clerk

TRAFFIC & PARKING ORDINANCE: Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council 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 giving notice thereof, no person shall park a vehicle on the west side of South Main Street, from the south curb-line of West Court Street in a southerly direction for a distance of 36 feet, for a period of time longer than 15 minutes between the hours of 8:00 o'clock A.M. and 6:00 o'clock P.M. local time Monday through Friday.

Section 2. When signs are erected giving notice thereof, no person shall stop, stand or park a vehicle on the south side of East Court Street, beginning at a point 39 feet east from the east curb-line of South Garden Street in an easterly direction for a distance of 24 feet, during the hours of 8:00 o'clock A.M. to 6:00 o'clock P.M., local time, for any purpose other than the expeditious unloading and delivery, or pickup and loading of materials and goods, and then only for a period not to exceed thirty (30) minutes.

Section 3. When signs are erected giving notice thereof, no person shall park a vehicle on the south side of West Henderson, beginning at a point 33 feet west from the east curb-line of South Main Street in a westerly direction a distance of 183 feet, for a period of time longer than 2 hours between the hours of 9:00 o'clock A.M. and 6:00 o'clock P.M., local time, except Sundays and Holidays.

Section 4. When signs are erected giving notice thereof, the Speed limit for U.S. 70 (East), also known as East Court Street, from Yancey Street (SR 1720) extending eastward to the City Limits, is established at 45 MPH. This limit shall be listed at Appendix I, Section 119 of the Marion City Code, and the previous limit of 35 MPH is hereby changed, and any references to the 35 MPH limit for the applicable length shall be abolished or modified, and such references shall be deleted from Appendix I.

Section 5. That the Marion City Code, Part 7. MOTOR VEHICLES and TRAFFIC, Appendices Section 102, is hereby amended to read as follows: Parking Limited to 2 Hours between the hours of 9:00 o'clock A.M. and 6:00 P.M., local time, except Sundays and Holidays.

Section 6. 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 7. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 17th day of April, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
Earl Danfels, City Manager/Clerk



J. Earl Daniels, City Clerk

Ordinance Number \_\_\_\_\_

**RESOLUTION DIRECTING CLERK TO INVESTIGATE:** Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-31  
FROM GLADYS GOODSON GIBSON, ET AL**

WHEREAS, a petition requesting annexation of an area described in said petition has been received on 17th of April, 1990 by the City Council, and

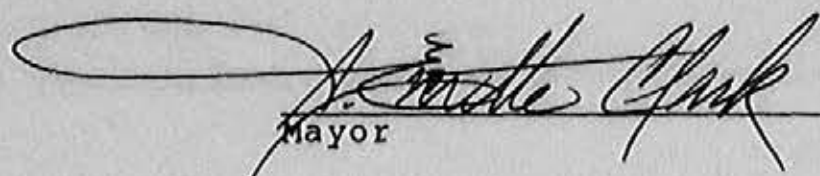
WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

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 this investigation.

ADOPTED this the 17th day of April, 1990.

  
Mayor

A. Everette Clark,

ATTEST:

  
J. Earl Daniels, City Clerk

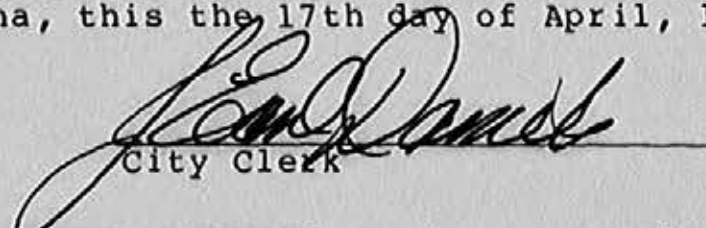
**CERTIFICATE OF SUFFICIENCY:** Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to accept the following Certificate of Sufficiency:

**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 17th day of April, 1990.

  
City Clerk

J. Earl Daniels,

**RESOLUTION FIXING DATE OF PUBLIC HEARING:** Upon a motion by Councilman Tyler, seconded by Councilman Little, Council 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 o'clock, P.M., on the 5th day of June, 1990.


Section 2. The area proposed for annexation is described as follows:

**BEGINNING** on an iron pin set in the present city limits line, said iron pin being located S 72 degrees 52'01" E 144.16' and N 46 degrees 30'00" E 200.07' from NCGS monument "Ballew", said monument having NC Grid coordinates of Y = 710,712.324 and X = 1,102,513.573, and running thence from said **BEGINNING** point N 46 degrees 30'00" E 738.98' to an iron pin set, thence S 53 degrees 37'19" E 569.74' to a concrete monument, thence S 37 degrees 00'04" W (passing an iron pin set at 39.10") a total distance of 269.10' to an iron pin set, thence S 52 degrees 27'09" W 100.00' to an iron pin set, thence S 59 degrees 21'03" W 149.29' to an iron pin set, thence W 140.00' to an iron pin set, thence S 42 degrees 17'08" W 27.66' to an iron pin set in the present city limits line, thence with the present city limits line the following five (5) bearings and distances: N 49 degrees 27'23" W 83.28' to a point; N 49 degrees 27'12" W 309.22' to a point; N 45 degrees 55'23" W 42.00' to a point; N 43 degrees 53'23" W 42.88' to a point; N 41 degrees 23'32" W 5.18' to the **BEGINNING** containing 9.79 acres, DMD.


And being that portion of the Gladys Goodson Gibson, ET Vir property as described in D.B. 141, Page 3, Tract 3, lying outside the present city limits of Marion, North Carolina.

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 17th day of April, 1990.

  
A. Everett Clark, Mayor

ATTEST

  
J. Earl Daniels, City Clerk

**MUNICIPAL ELECTIONS - DISCUSSION:** The City Manager presented a memorandum to Council concerning the municipal elections. The memorandum stated that due to regulations by FLSA, a City employee could not be contracted by the City and appointed by the Board of Elections to serve as Supervisor of Elections. If the City continued to conduct their own elections, it would be necessary to employ someone to be available during the regular hours of City Hall or to have someone volunteer their time for this purpose.

The memorandum stated that the City Manager had been in contact with Mr. Alex Brock, of the State Board of Elections and had been advised that most municipalities contracted with the County Board of Elections to conduct municipal elections. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to table the matter until the May 23, 1990 meeting.

**REQUEST - CITY OF MARION TREE BOARD:** The City of Marion presented a memorandum to Council from Mr. Robert Parker, Personnel Director on behalf of the Marion Tree Board requesting \$210.00 to purchase six dogwoods, six crape myrtles, and three weeping cherries to be planted on the embankment of West Henderson Street along the railroad overpass.

Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to approve the request.

#### REPORTS:

**1. DOT - TIP MEETING - LIST OF PRIORITIES:** The City Manager stated that the annual DOT - TIP Meeting would be held next month and would like to have some input as to what items Council wished to be on the list of priorities.


**2. COMMENTS - COUNCILMAN TYLER:** Councilman Tyler stated that he had received a request for the City to install a "drop box" for persons to place their water and sewer bills in after hours. A short discussion followed. It was




decided to look at the matter during the renovation of the existing building.

**3. COUNCILMAN AYERS - COMMENTS:** Councilman Ayers stated that he had received a complaint concerning algae and a thick, black substance in the stream on Clairmont Avenue. He stated that small children played in the stream and if someone was dumping substances in the stream, it could be harmful to the children. Mr. Alvin Callahan, Building Inspector was instructed to contact Mr. Bill Hunnicutt, Chief Operator, Waste Treatment Plant to see if they could locate the source of the substance.

**ADJOURNMENT:** Upon a motion by Councilman Cross, 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

May 2, 1990

The City Council for the City of Marion met in Special Session on Wednesday afternoon, May 2, 1990 at 2:00 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; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Robert Parker, Personnel Director; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Penn Dameron, City Attorney; Ed Hill, Public Works Department; Aaron Adams, Street Superintendent; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

**GUESTS PRESENT:** Mr. Roy Davis, Regional Supervisor, North Carolina Department of Environmental Management; and Mr. Gary Francis, Laboratory Inspector, North Carolina Department of Environmental Management.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to discuss a utility matter and the container service for the downtown area. He stated that he would like to turn the meeting over to the City Manager.

The City Manager stated that he would like to read a letter sent to Mr. Roy Davis as follows:

April 27, 1990

Mr. Roy Davis, Regional Supervisor  
Division of Environmental Management  
59 Woodfin Place  
Asheville, North Carolina 28802

Dear Mr. Davis:

Today, Mrs. Dawn Plemmons resigned from her position with the City of Marion after eleven years and seven months of employment. She was the laboratory technician for the Corpening Creek Plant and holds a Grade IV Wastewater Treatment Plant Operator's Certificate. Mrs. Plemmons was employed by the City of Marion on September 26, 1979.

I have discussed her resignation with Mr. Bill Hunnicutt, Chief Wastewater Treatment Plant Operator for the City of Marion. We are both of the opinion that Mrs. Plemmons' resignation is a direct result of an inspection recently conducted at the Corpening Creek Wastewater Treatment Plant laboratory by personnel of the Department of Environmental Management.

Needless to say, losing a Grade IV Certificate holder and chief laboratory technician with her experience has done irreparable damage to our wastewater



treatment plant operations.

I realize that your department and its personnel are charged with certain duties and responsibilities as outlined by the Environmental Protection Agency and the State of North Carolina. However, in my opinion, there is absolutely no excuse for any person conducting an inspection to push the limits of their authority to a point that an employee of another governmental agency resigns their position.

It is respectfully requested that, in the future, all personnel from your department deal directly with Chief Wastewater Treatment Plant Operator for the City of Marion, Mr. Bill Hunnicutt or me. We have no objections to unannounced inspections at our facilities, however, we request that the Chief Operator and/or the City Manager be present during the inspections.

The employees at the wastewater treatment plant facilities take their instructions from the Chief Operator. If our personnel are not properly doing their work or if there is a problem at any of the facilities it is the responsibility of the Chief Operator to make corrections.

I think that it is important to remember that we are charged with the responsibility of protecting our environment and that we should work together, cooperating and supporting each other in that effort. Your people should point out to our Chief Operator those areas which need improvement and be willing to help us find solutions for our problems.

Sincerely,

J. Earl Daniels  
City Manager

cc: Mr. George Everette, Director Environmental Management  
Mr. Bill Hunnicutt, Chief Operator Waste Treatment Plant  
City of Marion

The City Manager stated that Mr. Davis had taken issue with two points in the letter. In the section that refers to the resignation of Mrs. Plemmons as a result of the inspection and the section that refers to the authority of personnel conducting inspections. The City Manager stated that both instances in the letter he stated that it was an opinion.

The City Manager stated that at the time of the inspection, Mr. Francis advised the City that an additional persons were needed at the waste treatment facility lab. The City Manager stated that this was the first time he had received any word concerning additional help and an advertisement was immediately placed in the newspaper requesting applications.

The City Manager stated that the day after the inspection, he received a telephone call from Mr. Jim Reid of the local office of Environmental Management stating that if requested, the City could reduce the testing for ammonia. The City Manager stated that he had asked that Mrs. Plemmons send the request and she was advised she did not have the authority to make the request that it would have to come from the City Manager. The City Manager stated that he received Mrs. Plemmons' resignation shortly thereafter. He stated that he had talked with her, but she would not reconsider.

The City Manager stated that he had asked Mr. Davis and Mr. Francis to be present at the meeting so they could tell the City exactly what needed to be done to get the laboratory in proper condition and the qualifications of the persons that need to be employed in those positions.

The City Manager stated that City employees had received verbal information that the laboratory would be decertified. He stated that if the laboratory was decertified, the samples from the wastewater plants would have to be hand carried to a private laboratory in Asheville for testing. He stated that the City had run into problems before with private laboratories not getting the results of the testing to the City in time to submit the monthly reports to Raleigh on time which could result in fines.

Mayor Clark stated that the representatives of the Utility Committee had met earlier in the week with Mrs. Plemmons and he asked if they would like to comment on the situation.

Councilman Stronach stated that the personnel at the laboratory had been advised that the reports submitted in the past from the wastewater plants, including the Clinchfield Plant, were null and void due the upcoming decertification of the laboratory. Mr. Hunnicutt stated that this statement was correct.

Mr. Davis stated that he would like to discuss the issue of Mrs. Plemmons resignation before problems from the laboratory were discussed. He stated that if



persons were resigning due to inspections conducted by their personnel, then they needed to conduct the inspections in a different manner.

The City Manager stated that Mrs. Plemmons had been with the City before the present laboratory was built and had been in charge of the lab since that time. He stated that she took the results of the inspection personally since she ran the laboratory facility. He stated that in fact, she had gotten so upset during the inspection that she had to leave and go home.

Councilman Ayers stated that he did not know if the person conducting the inspection said anything directly to Mrs. Plemmons or not, but he thought that the inspector should talk to superiors rather than employees concerning problems.

The City Manager stated that the reason the City was upset before the report had been received was because a valuable employee had resigned.

Mr. Gary Francis stated that when he conducted inspections, he had made it a policy to deal directly with the laboratory supervisors. He stated that most of the time, the chief operators were not around during the inspections. He stated that he did not understand why the City was so upset before the results of the inspection had been received.

Mr. Francis stated that he would like to answer Councilman Stronach's question concerning the test results for the wastewater plants. He stated that he had stated that the results for the Catawba River Plant were highly questionable and the reasoning for that statement would be included in the inspection report.

Mr. Bill Hunnicutt stated that when Mr. Francis arrived at the laboratory, within ten minutes he had told Mrs. Plemmons that the condition of the lab was atrocious and he would recommend to the State that the lab be decertified. He stated that Mr. Francis was very abusive to Mrs. Plemmons and asked her to conduct tests in the laboratory and would not let her complete a test before he stopped her and told her she was not using the correct method for the testing.

Mr. Davis stated that he believed that Mrs. Plemmons resigned due to the increase in her workload at the plant. He stated that he did not believe her resignation had anything to do with the inspection or the way the inspection was conducted.

Mr. Francis stated that a question had been asked about the quality of work. He stated that he did not feel that this was the proper place to discuss the matter. He stated that he did not want Mrs. Plemmons to resign her position that he felt that the resignation was due to the increased work load and she had tried to get the work done to get results and had made several mistakes. He stated that the work was just not up to par and there was no quality control to support the data which made the data questionable.

Mayor Clark asked how often the laboratories were inspected. Mr. Francis stated that the certificates were issued every three years and an inspection had to be conducted at least once during that time. He stated that the last inspection was in February of 1987. He stated that he tried to inspect the problem areas more often due to limited time.

The City Manager stated that when the report was received, most of it would contain technical information which would he would not be able to understand. He stated that he would like to make two points: 1. That the City was not on a "witch hunt" and 2. That the increase in work load was primarily due to the State requiring additional testing.

Mr. Davis stated that he did not feel that Mrs. Plemmons left her employment due to the inspection. Councilman Little stated that was Mr. Davis' opinion like the opinion of the City was that she left due to the inspection.

Mayor Clark stated that he had talked with Mrs. Plemmons after she had resigned and that the inspection was a major factor for the resignation. He stated that the manner that Mrs. Plemmons was treated during the inspection weighed greater than fifty percent in her decision to resign.

The City Manager told the Council that Mrs. Plemmons had stated that the City may be paying her salary but she was primarily working for the state.

Mr. Hunnicutt stated that Mr. Francis was a very abrasive type character. He stated that he was at the laboratory to observe Mrs. Plemmons work but he stopped her from conducting any of the tests. He stated that he felt that he should have talked to the persons in higher management rather than Mrs. Plemmons.

Mr. Davis stated that he would like to apologize for anything that state personnel had done which may have led to the resignation of Mrs. Plemmons and that there were evidently two sides to the story.

Councilman Stronach asked if there were deficiencies in the report would there be suggestions or recommendations to correct the problems. He was advised that there



would be recommendations.

Mr. Francis stated that he would like to apologize as well. He stated that he did not do anything intentional to cause Mrs. Plemmons to resign her position. He stated that all she indicated to him was the increase in her workload. He stated that he had made a policy to talk with the supervisor of the lab before he left so that they would know what he had recommended in the report. He stated that several times Mrs. Plemmons had broken down and cried. He stated that he told her that he did not believe the problems were her fault that they were due to the increase in the work load. He stated that he felt that she had a lot of frustration built up and she knew that the results of the inspection would be bad. He stated that Mrs. Plemmons had become upset and he and the lady that had accompanied him left for lunch. He stated that when they returned, Miss Beam informed them that Mrs. Plemmons was so upset that she had to go home. He stated that at that point, he looked for Bill Hunnicutt and Bill asked him to come talk to the City Manager. He stated that he called Mrs. Plemmons the next day and had talked with her an average of three times per week since the inspection. He stated that he had been giving technical advise to bring the lab back to the standards.

Councilman Ayers asked if there were other towns experiencing the same type problems or if the problem was unique to Marion. Mr. Francis stated that the smaller municipalities were having similar difficulties.

Mr. Francis stated that he would like to state that several references had been made concerning the operator's certificates and that those certificates had nothing to do with the lab certification.

Mayor Clark stated that he would like to make sure that the news media understood that the City is meeting the discharge permits and it was different from the question of the quality of the data.

Councilman Little asked if in the event the laboratory was decertified, would the City have a time period to try to correct the problem before the decertification came into effect. Mr. Francis stated that usually, municipalities were given thirty days to comply with the recommendations and in the past, extensions had been given if needed. He stated that if the lab was decertified, it would become decertified at that time. He stated that he could not tell the City what was in the report. He stated that the deviations he found at the lab were certainly severe enough to warrant decertification, however, he had recommended that the City voluntarily send samples to an independent laboratory for thirty days.

Councilman Little asked how quickly the certification could be reinstated. He was advised that at the end of thirty days, the City could request that the lab be recertified.

Mr. Francis stated that since Mrs. Plemmons had resigned, it may complicate things concerning the certification or decertification. He stated that Miss Beam had talked to him concerning the position, however, he was not sure that she met the qualifications.

Council thanked the gentlemen for coming to the meeting.

The City Manager stated that he had asked Mr. Ed Hill to come to the meeting. He stated that Mr. Hill drove the garbage packer truck serving business and industry for the City.

The City Manager presented copies of regulations from Senate Bill 111 relating to municipalities. He stated that the bottom line was that all waste materials placed in landfills had to be reduced by twenty five percent by 1993.

The City Manager stated that he attended a meeting earlier in the week and if the project goes as planned, McDowell Technical Community College will be establishing a recycling center with a compactor, bailer and places to dispose of items to be recycled.

Councilman Ayers asked if the City got out of garbage collection completely would they have to comply with the regulations of Senate Bill 111. He was advised that they would not.

Councilman Stronach stated that he would like to meet with the County before any action was taken.

The City Manager stated that a statement had been made earlier that the life of the present landfill was approximately five years, however, someone had stated that the life of the landfill ten years ago was five years. The City Manager stated that state regulations had changed. He stated that he had been advised that the cost to develop a new landfill was between \$185,000 and \$200,000 per acre excluding land costs.

Mr. Ed Hill stated that if the majority of businesses downtown would break down



cardboard, the amount of trash in the containers could be reduced by forty to sixty percent. He stated that if cardboard was eliminated entirely, the amount of trash in the containers could be reduced up to seventy-five percent.

Mr. Hill stated that most of the cardboard came from supermarkets, convenience stores, furniture stores and knitting mills. He stated that others could get by with the three, thirty-five gallon containers.

Councilman Stronach asked how many containers were completely full. Mr. Hill stated that he picked up approximately forty-eight to fifty containers daily and that a little over half of the containers were completely full.

Councilman Ayers stated that at his business, he broke down the cardboard, however, he did not bundle the cardboard.

Councilman Cross stated that he felt that if the City backed away from the original decision, they would be delaying the same answer at another time.

The City Manager asked Mr. Sherlin if a new packer truck would have to be purchased this year or would the one in use last until next year. Mr. Sherlin stated that the truck would have to be purchased this year.

Councilman Cross asked if there would be more of a problem if there were more cans to pick up rather than containers. Mr. Sherlin advised that it would not be a problem.

Councilman Little asked if the City could contract with a private hauler with the City paying for the service. He was advised that the City could, however, it would cost the City more than if the City still picked up under existing procedures.

Councilman Ayers asked if the City could pay a flat fee for one pick-up per week for one year to get the merchants used to paying for the service.

Councilman Ayers asked if the merchant was not happy with the contractor what would happen. He was advised that the contractor could be asked to come to a Council meeting.

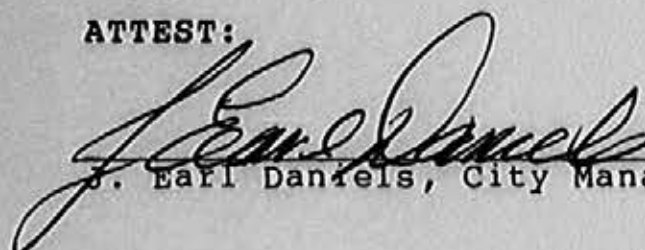
Councilman Stronach asked if Mrs. Freddie Killough, Downtown Development Director could find out which merchants could get by with one pick up.

The City Manager was directed to contact both private haulers and ask for a flat rate, regardless of container size, bid for one pick-up per week.

There being no further business, the meeting was adjourned.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

May 8, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, May 8, 1990 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; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Penn Dameron, City Attorney.

**GUESTS PRESENT:** Ted Davis, Johnsons Bookstore; Wilber Dalton, M & M Market; Tony Austin, The McDowell House; Jim Kalkwarf, Garbage Disposal Service; Tom Winkler,



Garbage Disposal Service; David Tilson, Tilson Sanitation; Gene Cable, Tilson Sanitation; Kathy Allison, Fullenwider Enterprises; Jeff Allison, Fullenwider Enterprises; Johnny Freshour, Freshour's Market; Joella Fullenwider, Fullenwider Enterprises; Mike Fullenwider, Fullenwider Enterprises; Peggy Saunders, Byrd, Byrd, Ervin Law Firm; John Ervin, Byrd, Byrd, Ervin Law Firm; Bob Gaddy, Harvest Drive In; Freddie Killough, Downtown Business Association; Debbie Randolph, Downtown Business Association; Dr. David DuBose, McDowell Twin Cinema; Al Reel, P & R Produce; Jim Segars, Tainter's; J. B. Bundy, Roses; David Setzer, The McDowell News; Woody Killough, Downtown Business Association; Larry Stillwell, Big Daddy's Minit Mart.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the April 17, 1990 and May 2, 1990 minutes.

**MCDOWELL MARINERS BOARD OF DIRECTORS:** The City Manager read a letter from Mrs. Charlene Sisk on behalf of the Mariners Board of Directors to Council. The letter stated that the board would like to recommend that the terms of persons serving on the Recreation Commission be limited to one three year term. The letter stated that consideration should be given to appointing persons who had children involved in the recreation program.

The City Manager stated that he had talked with Mrs. Sisk and she had stated that the persons on the board at this time did not attend the meetings regularly and did not seem to be interested in the Recreation Commission. She also stated that she would like for the request contained in the letter be presented to the McDowell County Commissioners and the Old Fort Board of Aldermen as well.

Councilman Ayers stated that he had talked with Mrs. Sisk also and she was very concerned with the present situation of the Recreation Commission. Councilman Ayers stated that he would like to see something done to correct the situation and not put the complaint aside.

For the benefit of the persons present and the media, the City Manager explained that at this time, three persons were appointed to the Recreation Commission from each governing board. The persons appointed to the board served three year terms and were to oversee the operations of the Commission. He stated that at this time, there was no limit to the amount of terms the persons could serve.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to table the matter until the next Joint Meeting with the County Commissioners and the Old Fort Board of Aldermen.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST TO BLOCK MAIN STREET - JULY 4, 1990 CELEBRATION:** The City Manager presented a memorandum to Council from Mrs. Freddie Killough, Downtown Business Association Director requesting permission to block Main Street from Court Street to Henderson Street on Wednesday, July 4, 1990 from 9:30 A.M. to 9:00 P.M. for a parade, booths, activities and street dance.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to approve the request.

**TAX REFUND - COY LEE AND LINDA AUTREY:** The City Manager presented a memorandum to Council from Ms. Claudia Shehan, Tax Collector requesting a tax refund for Coy Lee and Linda Autry in the amount of \$41.01. The memorandum stated that the refund was due to the property being reappraised after the taxes had been paid.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the tax refund.

**FLOOD ORDINANCE - REQUEST FOR VARIANCE - FULLENWIDER ENTERPRISES:** The City Manager stated that information had been provided to Council from Ms. Lisa Sharrard, National Flood Insurance Program, Assistant State Coordinator concerning the request. The letter stated that it was the opinion of that office that the criteria for granting a variance in accordance with the City's Flood Ordinance had not been met. In addition, the letter stated that the City could not grant a variance for the proposed project below the base Flood Elevation without suffering consequences from FEMA, which could include probation and/or suspension from the NFIP.

Councilman Little stated that after reviewing the letter from Ms. Sharrard, it seems that nothing said or done would adjust FEMA's ruling on the matter. He stated that he did not feel it should be the City's responsibility to grant the variance. He stated that it seemed as if the State had "gone berserk with a good idea". He stated that he had also reviewed the letter prepared by Ms. Saunders and would be willing to accept her findings as good reasons for granting the variance.

Councilman Little stated that he would like to make a motion to grant the variance. Councilman Stronach seconded the motion.



Mayor Clark stated that he would like to ask Mr. Dameron to give the City some legal advice at this point.

Mr. Dameron stated that the City would be well advised to adhere to the Flood Ordinance when consideration is being given to a variance. He stated that he was not sure that the findings by Ms. Saunders could be facts. He stated that if Council was asking if he endorsed the proposal entirely, he could not.

Mr. John Ervin stated that the State had placed the granting of variances on the local governments. He stated that it had been the practice in Morganton since 1962 to be careful with the responsibility of granting the variances, but the City had granted variances. He stated that areas along Hwy 181 were located in the flood zone and several businesses had been constructed in that area.

Mr. Ervin stated that he felt that FEMA required that the cities look at the facts of each case and where the city felt that it was justified, a variance could be granted. He stated that he was aware that failing to adhere to the regulations could result in loss of flood insurance coverage.

He stated that he felt that before this action could be taken, that the city would have to show disregard and a pattern for disregard when granting variances. He stated that he felt that this action would not be taken if the case included hardship, was isolated and considered independently.

Mr. Ervin stated that he felt that this was a hardship case and that a Supreme Court ruling had been that any action or rules which prohibit the use of land was the same as condemnation of the land.

Councilman Ayers stated that the Flood Ordinance had only come into effect in 1987. He asked what had been done in Morganton with regard to variances since 1962 as Mr. Ervin had stated. Mr. Ervin stated that Morganton had not totally disregarded the regulations, however, they had granted variances in cases where older buildings existed such as this case.

Councilman Ayers stated that he felt that no member of Council was against the building, however, he felt that if the variance was granted, the City could suffer serious consequences. He stated that he could not agree with the variance as it stood at this time.

Mr. Ervin stated that FEMA would be looking for a pattern of variances granted before serious action was taken. He stated that this was a single instance with justifiable reasons for the variance.

Councilman Ayers stated that Council knew of more development within the year in the area and there would be more with the completion of the By-Pass and it would create a pattern if more variances were given.

Councilman Little stated that he felt that if the variance was not granted, a burden would be placed on the developer. He stated that he could see this case as justifiable since the building was to be constructed between two existing buildings, one of which was constructed prior to the 1916 flood.

Councilman Stronach stated that the By-Pass would take care of flood and soil erosion by creating a dam. He stated that he could not see where the building could be damaged by a flood.

Councilman Ayers asked if Mr. Fullenwider had checked into the possibility of building a flood proof building. Mr. Fullenwider stated that it would not be possible for a fast food restaurant.

Mrs. Lovina Smith stated that she had sent letters from Mr. Fullenwider's engineer and attorney and a video tape of the area to Ms. Sharrard. She stated that Ms. Sharrard had strongly advised that the variance not be granted. She stated that if the variance was granted, a report would have to be sent to Raleigh and that the City would automatically be placed on an audit list. She stated that any additional permits in that area would be audited as well.

The City Manager stated that the City was forced to adopt the ordinance or lose the flood insurance and they were told at the time they could lose federal funding as well.

Councilman Little stated that he did not think that FEMA could have authority to keep the City from getting federal funding.

Mr. Ervin stated that he was glad that he was not in the position to have to make a decision with regard to the variance.

Councilman Tyler stated that he would like to have Mr. Dameron tell Council what problems he saw with the findings of Ms. Saunders. He stated that he did have problems with the findings, however, only FEMA could tell what the consequences were. He stated that the City could be placed on probation or the flood insurance could be suspended. He stated that several of the findings were guaranteed to



cause the City problems. He stated that one finding dealt with contract zoning which was illegal and that the property was not rendered worthless just because it could not be used for this purpose.

Councilman Tyler asked if the building would be higher than the two existing buildings. Mr. Fullenwider stated that the building would be six feet higher than the McDowell House and one foot higher than Darrell Ford.

Councilman Ayers stated that the existing buildings would have to comply with the ordinance if they were being constructed now.

Councilman Little stated that he could not see where FEMA would take action for one variance under these circumstances. He stated that he would like for the attorneys to work together and to strike the items from Ms. Saunder's findings that Mr. Dameron had a problem with.

Mr. Ervin stated that he would be more than willing to look at the findings and adjust them as necessary. He stated that they did not want Council to make an inappropriate action. He stated that he would like to review the findings and come back to the next meeting.

Councilman Little stated that he would like to withdraw his motion to grant the variance. Councilman Stronach stated that he would withdraw his second.

**PUBLIC HEARING - GARBAGE CONTAINER SERVICE:** The City Manager opened a Public Hearing for the purpose of discussing garbage container service. He stated that Council had previously adopted an ordinance to discontinue container service effective July 1, 1990.

The City Manager read sections of Senate Bill 111 relating to certain items which could not be placed in landfills such as used oil - 1990; lead-acid batteries - 1991; and yard wastes - 1993; and that by 1993, all wastes placed in the landfills have to be reduced by twenty-five percent.

The City Manager stated that in his opinion, in order to meet the requirements the County will have to prohibit certain items from being placed in the landfill. He stated that pasteboard or cardboard would most likely be prohibited from the landfill. He stated that if this happens, then the City would have to prohibit pasteboard to be placed in containers which could mean that the City would have to purchase additional trucks and hire additional people to dispose of the pasteboard, and at that time, how many of the merchants would still have a need for containers.

The City Manager stated that if the City purchased a truck it would cost approximately \$100,000. He asked what would happen in six months if the County voted to ban pasteboard, glass and aluminum from the landfill.

The City Manager stated that the first proposal was to try to eliminate pasteboard from the containers by having merchants break it down with the City picking it up and bailing it. He stated that if this was done, businesses would need smaller containers.

Dr. David DuBose stated that he felt that approximately twenty-five percent of the reductions imposed by Senate Bill 111 would be enforced. He stated that if there were no places to dump these items, they would be found on roadsides, in ravines and creeks.

Mr. Larry Stillwell stated that if the City hired a private hauler to take the garbage, it would not eliminate the problems. Councilman Ayers stated that the waste would be taken to Caldwell County to a recycling center.

The City Manager stated that McDowell Technical College was applying for a grant for a recycling center which would have a baler for the cardboard. He stated that if the grant was not approved that either the County or the City would purchase a baler. He stated that the City was trying to make a decision as to what they had to do without knowing what actions the County was taking.

Mr. Jim Segars stated that he felt that using the excuse of having to purchase a new truck was terrible to use as a reason to get out of the garbage business. He stated that the truck could be used in other ways if the City had to get out of the business at a later date. He stated that the County would find another location for a landfill when this one was filled. He stated that recycling was a good idea and should be done.

Councilman Ayers stated that the City could get out of the business and contract with a private hauler. He stated that this way, the City would not have to comply with the regulations. Councilman Ayers stated that if the merchants were trying to get rid of the cost, they would have to pay for either the pick-up or a higher tax rate.

Councilman Little stated that if the County will not allow pasteboard or aluminum



in the landfill that the City would not be neglecting their responsibility if the service was contracted. He stated that a person from GDS had indicated that they were in the process of constructing a major recycling center. He stated that the calls he had received from the merchants indicated that they did not mind paying for the service, however, they would rather the City continue picking up containers rather than contracting with a private hauler. He stated that he felt now that the City should stay in the business.

Councilman Ayers stated that if a new truck was purchased and the City met the requirements of Senate Bill 111, the cost to pick up containers would be doubled. Mr. Segars stated that the truck would be worn out before the requirements were enforced. He stated that the City was a non-profit organization and could pick up containers for less than what a private hauler would charge.

Mayor Clark stated that there were several ways to deal with the problem. He stated that Senate Bill 111 was in effect and the City would have to comply.

When the discussion was completed, the City Manager closed the Public Hearing.

Councilman Tyler made a motion to adopt the following ordinance allowing the purchase a new garbage packer truck and provide two pick-ups per week without charge with any additional pick-ups being \$10.00 each.

Councilman Stronach asked if the previous ordinance did not need to be rescinded. Councilman Tyler amended his motion to include rescinding the previous ordinance to discontinue service as of July 1, 1990. Councilman Little amended his second.

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

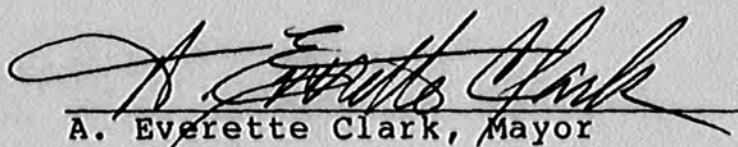
AN ORDINANCE AMENDING THE ORDINANCE ENTITLED AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE

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


Section 1. That Section 3.1 of the Ordinance entitled AN ORDINANCE REGULATING THE COLLECTION OF SOLID WASTE as adopted on the 25th day of June, 1987 is hereby amended by deleting the third sentence and inserting a new sentence to read as follows: A user fee of ten dollars (\$10.00) per container pickup will be assessed for any service beyond the two provided.

Section 2. This ordinance shall be in full force and effect on July 1, 1990.

Adopted this the 8th day of May, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

PUBLIC HEARING - ANNEXATION - GOODSON PROPERTY: The City Manager opened a Public Hearing concerning the annexation of the Goodson Property. There was no one present concerning the annexation. The City Manager closed the Public Hearing.

ORDINANCE - ANNEXATION - GOODSON PROPERTY: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council 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 5th day of June, 1990 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 30st day of June, 1990:


**BEGINNING** on an iron pin set in the present city limits line, said iron pin being located S 72 degrees 52'01" E 144.16' and N 46 degrees 30'00" E 200.07' from NCGS monument "Ballew", said monument having NC Grid coordinates of Y = 710,712.324 and X = 1,102,513.573, and running thence from said **BEGINNING** point N 46 degrees 30'00" E 738.98' to an iron pin set, thence S 53 degrees 37'19" E 569.74' to a concrete monument, thence S 37 degrees 00'04" W (passing an iron pin set at 39.10") a total distance of 269.10' to an iron pin set, thence S 52 degrees 27'09" W 100.00' to an iron pin set, thence S 59 degrees 21'03" W 149.29' to an iron pin set, thence W 140.00' to an iron pin set, thence S 42 degrees 17'08" W 27.66' to an iron pin set in the present city limits line, thence with the present city limits line the following five (5) bearings and distances: N 49 degrees 27'23" W 83.28' to a point; N 49 degrees 27'12" W 309.22' to a point; N 45 degrees 55'23" W 42.00' to a point; N 43 degrees 53'23" W 42.88' to a point; N 41 degrees 23'32" W 5.18' to the **BEGINNING** containing 9.79 acres, DMD.

And being that portion of the Gladys Goodson Gibson, ET Vir property as described in D.B. 141, Page 3, Tract 3, lying outside the present city limits of Marion, North Carolina.

Section 2. Upon and after the 30st day of June, 1990, 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 of the 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 8th day of May, 1990.

  
A. Everett Clark, Mayor

APPROVED AS TO FORM:

ATTEST

  
J. Earl Daniels, City Manager/Clerk

\_\_\_\_\_  
City Attorney

**PUBLIC HEARING - ZONING OF JANICE GOOD PROPERTY:** The City Manager opened a Public Hearing concerning zoning for the Janice Good Property. There was no one present concerning the public hearing. The City Manager closed the public hearing.

The City Manager presented a memorandum to Council from Mrs. Lovina Smith on behalf of the City of Marion Planning/Zoning Board to re-zone the property from R-2 General Residential to C-2 General Business.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to rezone the property from R-2 General Residential to C-2 General Business.

**PRIVILEGE LICENSE ORDINANCE:** Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adopt an Ordinance to be in effect July 1, 1990. The Ordinance can be found filed in the safe with the legal documents under Legal Document #565.

**REPORTS:**

**1. MUNICIPAL CODE CORPORATION:** The City Manager stated that Municipal Code Corporation had been in contact with him concerning the printing of the Code. He stated that there was still confusion with regard to the section concerning the person who the police chief would report to on a day to day basis. A short discussion followed. Council agreed that the section should remain as it was in



the previous Code, with the police chief reporting to the Mayor.

**2. DOT - T.I.P. MEETING:** The City Manager stated that the annual DOT T.I.P. Meeting would be Tuesday, May 15, 1990 at 1:00 P.M. at A.B. Tech. He stated that he would like for Council to make a list of the items they wished to present to DOT for consideration. Council agreed to allow the Street Committee to chose which items should be presented.

**3. COUNCILMAN CROSS - COMMENTS:** Councilman Cross stated that June 6, 1990 had been set aside as Woodmen of the World Day in celebration of their 100th Anniversary. He asked if they could proclaim June 6, 1990 as Woodmen of the World Day.

**4. COUNCILMAN TYLER - COMMENTS:** Councilman Tyler stated that the American Legion would have a ceremony for Memorial Day on Monday, May 28, 1990 at 3:00 P.M. at the Courthouse.

**5. BY-PASS - PROPOSED OPENING:** Mayor Clark stated that he had been asked by e had been asked by Representative Bob Hunter and Mr. Gene Edmonds, DOT if Council wished to open a portion of the By-Pass in the Sugar Hill area. He stated that the portion could be opened in thirty days if Council wished. A discussion followed. Council agreed to wait until the entire By-Pass was completed instead of opening portions.

**ADJOURNMENT:** Upon a motion by Councilman Stronach, 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

May 22, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, May 22, 1990 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; Robert Parker, Personnel Director; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; Van McKinney, News Reporter, W.B.R.M.; Penn Dameron, City Attorney.

**GUEST PRESENT:** Byron Phillips, Great Meadows, Inc.; David Crone, Crone Engineering; Todd Clark, Fleming Ave., Marion; Ken Suttles, Suttles Surveying, P.A.; Jeff Allison, Fullenwider Enterprises; Mike Fullenwider, Fullenwider Enterprises; John W. Ervin, Jr., Byrd, Byrd, Ervin, Whisnant, McMahon & Ervin, P.A.; Lisa Sharrard, Assistant State Coordinator, North Carolina Department of Crime Control and Public Safety.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the May 8, 1990 minutes.

**RESOLUTION OF APPRECIATION:** The City Manager presented a Resolution of Appreciation to the Council on behalf of the Marion Council of Garden Clubs.

**LETTER OF APPRECIATION:** The City Manager read a letter from Ms. Dianne P. Rice commending the City for traffic control during the bikers' Assault on Mt. Mitchell held May 20, 1990.



MACA - SHOW WAGON: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to allow the Whiz-Bang, Clang-A-Lang, Go-Get-The-Gang, Rollin-Down-the-Road Show Wagon to locate in the City Park each Thursday from June 11, 1990 to August 3, 1990 at 11:30 A.M. The wagon will not be parked on the driveway.

FLOOD ORDINANCE - REQUEST FOR VARIANCE - FULLENWIDER ENTERPRISES: The City Manager introduced Ms. Lisa Sharrard, Assistant State Coordinator, National Flood Insurance Program. He reviewed the variance requested. He then pointed out the Base Flood Elevation, the elevation as required by the City and the point at which Mr. Fullenwider wished to construct a building as marked on a pole displayed in the Council Chamber.

The City Manager explained that the ordinance adopted by McDowell County requires a building to be located one (1) foot above the base flood elevation instead of two (2) feet as required by the City. The higher the building is located above the base flood elevation results in a lower insurance premium for flood coverage.

Ms. Sharrard explained that in granting a variance two laws were involved - (1) the National Flood Insurance Flood Damage Prevention Ordinance and (2) the North Carolina State Building Code.

The State Building Code requires that the first level habitable (lowest) floor of all structures in the regulatory flood plain be located above the base flood elevation. Variances cannot be granted to the State Building Code.

Ms. Sharrard credited FEMA as taking a very dim view of any variance granted below the base flood elevations. She stated the City did have the option to grant a variance within the two (2) above the base flood elevation as required in the City's ordinance.

She explained that granting a variance in violation of FEMA's minimum standards could possibly cause the City of Marion to be monitored or audited by the Federal Emergency Management Agency to the extent that the City would be required to submit any permits issued in the flood plain for a period of time.

Ms. Sharrard stated that FEMA did not establish designated floodways for McDowell County in their study. She pointed out Article V. Provisions for Flood Hazard Reduction, Section C Standards for Streams Without Established Base Flood Elevation and/or Floodways which provides that no encroachments, including fill or new construction shall be permitted within a distance of the stream bank equal to three (3) times the width of the stream at the top of the bank. In lieu of establishing an imaginary floodway, certification with supporting data can be provided by a registered professional engineer demonstrating that such encroachment would not result in any increase in flood levels during base flood discharge. Data should be available from FEMA and the Corp of Engineers whereby the floodway could be established by an engineer. It is very important that this be addressed before any permits for construction are issued.

Councilman Little asked if she was aware of any other county or municipality that had issued variances that were below the base flood elevation. She replied that she was aware of two counties, one of which was issued an Intent of Probation. An Intent of Probation allows the county or municipality 120 days to correct the problem or be suspended from the program. At the end of the 120 day period a \$25.00 surcharge would be placed on every policy holder for a period of one year. At the end of the year, if the violation had not been corrected, the county or municipality would be suspended.

She explained that when a building is located below the base flood elevation the insurance premium is determined by FEMA, not the local agent. The property would have a special rating and the premium would be high. All flood insurance, regardless if it was purchased from a local agent or from the government, is federally subsidized. The independent agent is paid a commission from FEMA. Flood insurance premiums are not competitive between local insurance agencies. The insurance premium would apply to only the building being insured and not to all others located in the flood areas. The high premium would be in effect until the building was brought into compliance.

Councilman Stronach asked Ms. Sharrard if, after viewing the area, did the construction of the bypass change her opinion. She stated that until FEMA revises the map or the City's ordinance is amended, the City must meet the requirement in effect at the present time.

She explained that the floodway is that area with the greatest velocity and depth of water.

Councilman Little stated that he understood that a variance would not be given to that area in the floodway and with supporting data a variance could be given to that area in the flood plain. She stated that was correct provided it was not below the base flood elevation. The only way to issue a building permit below the base flood elevation would be if the building was floodproofed.



Ms. Sharrard presented a video of several businesses in the Raleigh, N. C. area with a similar problem.

Councilman Cross asked Ms. Sharrard how much additional time would be added to issuing the building permit if the City had to submit the application to FEMA for approval. She stated that the City could go ahead with issuing the permit. If there was a problem after being reviewed by FEMA, the City would have to issued a stop work order until the construction is in compliance with the National Flood Insurance Flood Damage Prevention Ordinance

She stated that in a hardship case, the hardship would be in relation to the property - not the property owner.

Councilman Little asked if she would illustrate a hardship case. Ms. Sharrard stated that FEMA, in their years of administering the program, could not come up with one instance where a variance could be granted below the base flood elevation.

Councilman Stronach asked Ms. Sharrard if an increase in insurance premiums should occur because a variance was granted below the base flood elevation, would it effect only the property in the City or the entire county. She explained that if the City was notified that they had 120 days to take corrective action, which might include rescinding the variance, a \$25.00 surcharge would be applied to only those properties in the corporate limits of the City of Marion having flood insurance. This is a state law.

Mr. Ervin, Attorney for the Fullenwider Enterprises asked Ms. Sharrard if he was correct that the \$25.00 surcharge would be placed only on that building in violation and not others in the City having flood insurance. She stated that he was correct.

Mr. Ervin asked if she knew of a county or municipality in the State of North Carolina that had been suspended from the flood insurance program. She replied no, however, one county in North Carolina had been threatened with probation.

He asked that if in the regulations it did not speak to a pattern of disregard to the flood ordinances distinguishing an isolated incidence. She stated that it did and that FEMA would look at this as establishing a pattern.

He asked if it was her intention that one isolated incidence would be sufficient to establishing a pattern in the meaning of the regulations. She stated that it was not her interpretation, but that at that point FEMA would look upon this as a beginning and would monitor the local government for a period of time. There was a lengthy discussion concerning the establishment of a pattern.

Councilman Little stated that it was his understanding that if Mr. Fullenwider's property is not located in the floodway, the City could grant a variance to the two (2) feet above the base flood elevation. Ms. Sharrard replied that was correct.

Mr. Ervin stated that he would like to return before Council at a later date with additional plans.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to table the matter.

**NATIONAL FLOOD INSURANCE FLOOD DAMAGE PREVENTION ORDINANCE -AMENDMENT:** Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to schedule a Public Hearing on June 5, 1990 to consider amending the National Flood Insurance Flood Damage Prevention Ordinance adopted October 20, 1987.

**FLOOD ORDINANCE - REQUEST FOR VARIANCE - GREAT MEADOWS, INC.** This matter was tabled.

**RESOLUTION DIRECTING CLERK TO INVESTIGATE - ANNEXATION -GREAT MEADOWS, INC.:** Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-31  
FROM GREAT MEADOWS, INC.**

**WHEREAS,** a petition requesting annexation of an area described in said petition has been received on 22nd day of May, 1990 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 proceedings 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 this investigation.

ADOPTED this the 22nd day of May, 1990.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

CERTIFICATE OF SUFFICIENCY - ANNEXATION - GREAT MEADOWS, INC.: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept the following Certificate of Sufficiency:

**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 22nd day of May, 1990.

 J. Earl Daniels,  
City Clerk

RESOLUTION FIXING DATE OF PUBLIC HEARING - ANNEXATION - GREAT MEADOWS, INC.: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council 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 o'clock, P.M., on the 5th day of June, 1990.

Section 2. The area proposed for annexation is described as follows:

**LEGAL DESCRIPTION  
PROPOSED ANNEXATION TO THE CITY OF MARION  
OF PROPERTY BELONGING TO GREAT MEADOWS, INC.**

A 5 32 acre tract located on the North side of N.C. Highway 70 and the West side of U.S. 221 (by-pass), said tract being in the Marion Township, McDowell County, North Carolina and being bounded on the South, West, and North by Great Meadows, Inc. and being more particularly described as:

BEGINNING on an aluminum disk found in the right-of-way of the new U.S. 211 (by-pass) (said disk being located North 09 degrees 36 minutes 05 seconds West, 294.69 feet from another aluminum right-of-way disk found) said corner, being a corner to Marion City limits.



Thence from the BEGINNING and with the existing Marion City limits line South 61 degrees 22 minutes 43 seconds West, 1398.26 feet to an iron, corner to Marion City limits.

Thence with the following calls for proposed annexation:

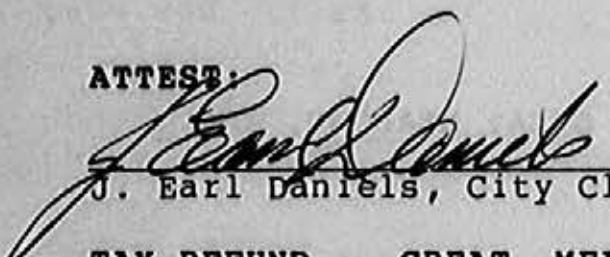
1. North 29 degrees 04 minutes West, 61.18 feet to a point,
2. North 60 degrees 54 minutes 13 seconds East, 76.01 feet to a point,
3. North 60 degrees 54 minutes 13 seconds East, 212.47 feet to a point of curve,
4. Thence with a curve to the right, having a radius of 0 00 feet, arc length of 15.04 feet, and a chord bearing and distance of : North 56 degrees 36 minutes East, 15.02 feet,
5. Thence North 52 degrees 17 minutes 17 seconds East, 151.82 feet to a point of curve,
6. Thence with a curve to the right, having a radius of 92.86 feet, arc length of 19.38 feet and a chord bearing and distance of: North 46 degrees 19 minutes East, 19.34 feet to a point,
7. Thence North 40 degrees 20 minutes East, 260.23 feet to a point,
8. Thence North 47 degrees 16 minutes 36 seconds East, 169.78 feet to a 2 inch iron pipe filled with concrete (set May 7, 1990),
9. Thence North 60 degrees 54 minutes 13 seconds East, 618.60 feet to a 2 inch pipe filled with concrete (set May 7, 1990) said iron being in the right-of-way of U.S. 221 (by-pass), said iron being located South 05 degrees 35 minutes 26 seconds East, 51.41 feet from an aluminum right-of-way disk found,
10. Thence with the right-of-way of U.S. 221 (by-pass) South 05 degrees 35 minutes 15 seconds East, 254.02 feet to the BEGINNING. Containing 5.32 acres and being the same as shown on a plat prepared by Jerry L. Ball, R.L.S., No. L-3108, and dated May 10, 1990, Map #90060.

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 22nd day of May, 1990.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Clerk

**TAX REFUND - GREAT MEADOWS, INC.:** The City Manager presented a memorandum to Council from Ms. Claudia Shehan, Tax Collector, requesting a tax refund for Great Meadows, Inc. in the amount of \$7,947.31 on 1989 taxes. Great Meadows, Inc. owns approximately 564.84 acres of land in McDowell County. Only 18.96 acres are located in the City of Marion. It was discovered that Great Meadows, Inc. was billed for the entire tract of land instead of only 18.96 acres.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to approve the tax refund.

**CONTRACT - J. BERTRAM KING:** This matter was tabled

**SURVEY - NEW FIRE STATION:** The City Manager informed Council that the low bid submitted by R.L. Greene Surveying & Mapping had been accepted for the survey and elevation work for the new fire station.

**RESOLUTION:** Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to direct the City Manager to prepare a Resolution requesting Congress to adopt and carry out a budget deficit reduction plan for the next regular meeting of the Council.

**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

June 5, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, June 5, 1990 at 7:00 P.M. in the City Council Chamber.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Freddie Killough, Downtown Business Association; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M.; and Lydia Carrington, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. Byron Phillips, Great Meadows Corporation; Mr. Mike Fullenwider, Fullenwider Enterprises; Mr. Jeff Allison, Fullenwider Enterprises; Mr. Tony Austin, The McDowell House; Mr. Larry Grant, The McDowell House; Mr. Jerry Pritchard, The McDowell House; Mr. Pat Jobe, Family Services; Mr. Darrell Baggett, Darrell Ford; and Mr. Bill Greenlee, Marion, N.C.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the May 22, 1990 meeting.

**PAINTING OF PARKING SPACES - CITY STREETS:** The City Manager stated that it had been noticed that some persons had problems seeing if they were inside a parking space on various streets in the City unless the person was outside of their car. He suggested that a small dot be painted approximately six inches from the "T" that marks the front of the spaces. He stated that the dot would be visible from inside the cars. A short discussion followed.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to allow a small dot to be placed at the front of parking spaces on the streets to allow persons to see if they were inside the space without getting out of their cars.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST PERMISSION TO HANG BANNER - JULY 4TH CELEBRATION:** Ms. Freddie Killough appeared before Council concerning a request to hang a banner across Main Street concerning the July 4 celebration. Ms. Killough stated that the banner would be ready around June 15, 1990 and they would like to hang the banner around that time. Councilman Ayers stated that since the matter had come up, he felt a length of time for the banner to hang on the street prior to the event should be set. He stated that he would like to recommend two weeks prior to the event. A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to set the length of the banner to hang on the street at two weeks prior to the event.

Upon a motion by Councilman Ayers, seconded by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to allow the Downtown Business Association to hang a banner across Main Street concerning the July 4 Celebration.

**NO THROUGH TRUCKS - GARDEN STREET FROM SPRING STREET TO RUTHERFORD ROAD:** Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to adopt the following Ordinance:


ORDINANCE PROHIBITING THROUGH TRUCKS ON CERTAIN STREETS

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

Section 1. When signs are placed giving notice thereof, it shall be unlawful for any truck exceeding three (3) tons in gross weight to use any street listed below unless such vehicle is making pickups and/or deliveries to residences on said street.

- A. South Garden Street, between Spring Street and State Street

Adopted this the 5th day of June, 1990.

  
A. Everette Clark, Mayor



ATTEST:

J. Earl Daniels, City Manager/Clerk

**WATER SERVICE - ROCKY PASS REST HOME:** The City Manager stated that Mr. Seagle from the Rocky Pass Rest Home was having to haul water to the rest home due to problems with the wells serving the facility.

The City Manager stated that Mr. Seagle had borrowed a four hundred gallon tank to haul the water which had a faulty hitch. He stated that Mr. Seagle would like to pick-up water at the fire hydrant near the prison rather than bring the tanker into town. Mr. Seagle would like to request that he be charged the rate for picking water up in town rather than at a hydrant. The charges are as follows: \$20.00 plus \$.05 per gallon for water picked up at a hydrant and \$10.00 plus \$.05 per gallon for water picked up at the station. The City Manager stated that he would like to recommend that Mr. Seagle be charged the rate for picking up water at the station.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to allow Mr. Seagle to pick up water from the hydrant for \$10.00 plus \$.05 per gallon.

**THRIFTY COURT MOTEL - REQUEST ADDITIONAL GARBAGE PICK-UP:** The City Manager stated that he had received a request from Thrifty Court Motel to have their garbage pick-up increased to once per week rather than once every other week. He stated that at this time, the business was served by G.D.S.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to increase the garbage pick-up for Thrifty Court Motel to once per week.

**FAMILY SERVICES - REQUEST TO PLAY BINGO IN BASEMENT OF COMMUNITY BUILDING:** Mr. Pat Jobe appeared before Council concerning a request to hold BINGO games in the basement of the Community Building for six months until another building could be secured for this purpose. Mr. Jobe stated that Family Services would like to hold the games on Monday nights and would be willing to pay \$200.00 per month for rent on the building.

The City Manager stated that several repairs needed to be made to the basement.

Councilman Ayers asked Mr. Jobe approximately how many persons were expected to be at the games. Mr. Jobe told him approximately two hundred.

Mr. Jobe stated that before an organization could begin a regular BINGO, they must have used a building for six months on a regular basis for a purpose other than BINGO. He stated that the Community Building was the only building that they could use for this matter.

The Police Chief stated that he had provided Council a memorandum on the subject and that he would like to explain the reasons he was against the request. He stated that at this time, a BINGO game must be monitored by the Police Department and audited by them. He stated that he did not feel comfortable with the relationship with the building being owned by the City. He stated that in addition, any other non-profit agency would be prohibited from having a BINGO game as long as Family Services was using the building for this purpose. The Police Chief stated that in the event of a wrong doing, persons in the general public who were attending the game could be charged. The discussion continued.

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

The Police Chief was directed to see if Family Services had used the building enough to qualify for using the building on a regular basis.

**PUBLIC HEARING - ADOPTION OF FLOOD ORDINANCE:** The City Manager stated that a Public Hearing had been called for the purpose of discussing the adoption of a new National Flood Insurance Flood Damage Prevention Ordinance or an amendment to the existing ordinance entitled National Flood Insurance Flood Damage Prevention Ordinance.

There was no one present concerning the public hearing. The City Manager closed the public hearing.

Councilman Little made a motion seconded by Councilman Cross to adopt the new ordinance entitled National Flood Insurance Flood Prevention Ordinance.

Discussion.

Mr. Bill Greenlee stated that if the requirements were reduced, it would jeopardize other properties in the area during flood conditions.



Mr. Darrell Baggett stated that if property in the area is filled, then the existing buildings would suffer additional damage due to the floods.

Mayor Clark called for the vote. The City Council unanimously voted to adopt the new ordinance entitled National Flood Insurance Flood Prevention Ordinance as follows:

**NATIONAL FLOOD INSURANCE  
FLOOD DAMAGE PREVENTION ORDINANCE**

**Regular Phase  
ARTICLE I.**

**STATUTORY AUTHORIZATION, FINDINGS OF FACT,  
PURPOSE AND OBJECTIVES**

**SECTION A. STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; parts 3, 5 and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Marion, North Carolina does ordain as follows:

**SECTION B. FINDINGS OF FACT.**

(1) The flood hazard areas of the City of Marion are subject to periodic inundation which results in loss of life, property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

**SECTION C. STATEMENT OF PURPOSE.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging, and other development which may increase erosion or flood damage; and,
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

**SECTION D. OBJECTIVES.**

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;



- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- (6) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and,
- (7) to insure that potential home buyers are notified that property is in a flood area.

## **ARTICLE 2. DEFINITIONS.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**"Appeal"** means a request from a review of the local administrator's interpretation of any provision of this ordinance.

**"Addition (to existing building)"** means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common loadbearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

**"Area of shallow flooding"** means a designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**"Area of special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of being equaled or exceeded in any given year.

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means that lowest level or story which has its floor subgrade on all sides.

**"Breakaway wall"** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. A wall with loading resistance of more than 20 pounds per square foot requires a professional engineer or architect's certificate.

**"Building"** means any structure built for support, shelter, or enclosure for any occupancy or storage.

**"Development"** means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated building"** means a non-basement building (a) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, or X to have the top of the elevated floor, or in the case of a building in Zones V1-V30, VE, or V to have the bottom of the lowest horizontal structural member of the elevated floor above the ground by means of pilings, columns (posts and piers), shear walls parallel to the flow of water and, (b) adequately anchored so as not to impair the structural integrity of the building during a flood up to the



magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, and X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, Ve, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building" even though the area below is enclosed by means of breakaway walls if the breakaway walls meet the standards of Article 5, Section B(5) of this ordinance.

**"Existing manufactured home park or manufactured home subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed before the effective date of this ordinance.

**"Expansion to an existing manufactured home park or subdivision"** means the preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

**"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

**"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**"Flood Insurance Study"** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**"Floor"** means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**"Functionally dependent facility"** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

**"Historic Structure"** means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminary determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminary determined by the Secretary of Interior as contributing to



the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; (c) individually listed on a State inventory of historic places; (d) historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without approved programs.

**"Levee"** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**"Lowest Floor"** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**"Manufactured home"** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Mean Sea Level"** means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD)".

**"National Geodetic Vertical Datum (NGVD)"** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**"New construction"** means structures for which the "start of construction" commenced on or after the effective date of this ordinance and includes any subsequent improvements to such structures.

**"New manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after the effective date of this ordinance.

**"Nonconforming building or use"** means any legally existing building or use which fails to comply with the provisions of the ordinance.

**"Recreational vehicle"** means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**"Remedy a violation"** means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other