development.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

"Structure" means, for floodplain management purposes, a walled and roofed building, a manufactured home, including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

"Substantial improvement" means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage"' regardless of the actual repair work performed. The term does not, however, include either: (1) any project of improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

"Substantially improved existing manufactured home park or subdivision" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction, or improvement commenced.

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

ARTICLE III.

GENERAL PROVISIONS.

Section A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the City of Marion.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Rate Map, dated July 15. 1988, with accompanying maps and other supporting data, and any revision thereto are adopted by reference and declared to be a part of this ordinance.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT.

A Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities.

SECTION D. COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION.

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Marion or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Marion from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE IV.

ADMINISTRATION.

SECTION A. DESIGNATION OF LOCAL ADMINISTRATOR.

The Building Inspector is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B. DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

Application for a Development Permit shall be made to the local administrator on forms furnished by him or her prior to any development activities. The Development Permit may include, but not be limited to, plans in duplicate drawn to scale showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; and the location of fill materials, storage areas, and drainage facilities. Specifically, the following information is required:

(1) Where base flood elevation data is provided in accordance with Article 4, Section C(10), the application for a Development Permit within the Zone A on the Flood Insurance Rate Map shall show:

(A) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(B) if the structure has been floodproofed in accordance with Article 5, Section B(2), the elevation (in relation to mean sea level) to which the structure was floodproofed.

(2) Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least 2 feet above the highest adjacent grade.

(3) Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

(4) When a structure is floodproofed, the applicant shall provide a certificate from a registered professional engineer or architect that the non-residential floodproofed structure meets the floodproofing criteria in Article 5, Section B(2).

(5) A floor elevation or floodproofing, certification is required after the lowest floor is completed. Within twenty-one (21) calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator a certification of the elevation of the lowest floor, or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to made said corrections required hereby shall be cause to issue a stop-work order for the project.

SECTION C. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.

Duties of the local administrator shall include, but not be limited to:

(1) Review all development permits to assure that the requirements of this ordinance have been satisfied;

(2) Advise permittee that additional Federal or State permits may be required, and if specific Federal or State permits are know, require that copies of such permits be provided and maintained on file with the development permit.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(5) Prevent encroachments within floodways unless the certification and flood hazard reduction provisions or Article 5 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B(5).

(7) Obtain the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with Article 4, Section B(5)

(8) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 5, Section B(2).

(9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(10) When base flood elevation data or floodway data has not been provided in accordance with Article 3, Section B, obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D(4), in order to administer the provisions of this ordinance

(11) Make on-site inspections of projects in accordance with Article 4, Section D.

(12) Serve notices of violation, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.

(13) Maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.

(14) Annexation. Provide the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two (2) copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

SECTION D. ADMINISTRATIVE PROCEDURES.

(1) **Inspections of Work in Progress:** As the work pursuant to a permit progresses, the local administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(2) **Stop-Work Orders:** Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(3) **Revocation of Permits:** The local administrator may revoke and require the return of the development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(4) **Periodic Inspections:** The local administrator and each member of his inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(5) **Violations to be Corrected:** When the local administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law in the property he owns.

(6) **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the administrator shall give him written notice, by certified or registered mail to his last known address or by personal service,

(A) that the building or property is in violation of the Flood Damage Prevention Ordinance;

(B) that a hearing will be held before the local administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,

(C) that following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(7) **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, the administrator may prescribe; provided that where the administrator finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.

(8) **Appeal.** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the administrator and the clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(9) **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the governing body following an appeal, he shall be guilty of a misdemeanor and shall be punished in the discretion of the court

SECTION E. VARIANCE PROCEDURES:

(1) The City Council as established by the City of Marion shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(4) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(A) the danger that materials may be swept onto other lands to the injury of others;

(B) the danger to life and property due to flooding or erosion damage;

(C) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(D) the importance of the services provided by the proposed facility to the community;

(E) the necessity to the facility of a waterfront location, where applicable;

(F) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) the compatibility of the proposed use with existing and anticipated development;

(H) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(I) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(J) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(K) the cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

(6) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(7) Conditions for Variances:

(A) Variances may not be issued when the variance will make the structure in violation of other Federal, State or local laws, regulations, or ordinances.

(B) Variances shall not only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) Variances shall only be issued upon (I) a showing of good and sufficient cause; (II) a determination that failure to

grant the variance would result in exceptional hardship; and, (III) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(D) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(E) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

ARTICLE V.

PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all areas of special flood hazard the following provisions are required:

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding; and,

(8) Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

(9) Non-conforming Buildings or Uses. Non-conforming buildings or uses may not be enlarged, replaces, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of this ordinance. Provided, however nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the Floodway Zone, provided that the bulk of the building or structure below base flood elevation in the Floodway Zone is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

SECTION B. SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data has been provided, as set forth in Article 3, Section B, or Article 4, Section C(10), the following provisions are required:

(1) **Residential Construction.** New construction or substantial improvement of any residential structure (including manufactured homes) shall gave the lowest floor, including basement, elevated no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided.

(2) **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than the level of the base flood elevation. Structures located in A-zones may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Article 4, Section B(5).

(3) **Manufactured Homes.**

(A) Manufactured homes that are placed or substantially improved on sites (I) outside a manufactured home park or subdivision; (II) in a new manufactured home park or subdivision; (III) in an expansion to an existing manufactured home park or subdivision; or, (IV) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood , must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated no lower than the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(B) Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Article 5, Section B(3a) of this ordinance must be elevated so that the lowest floor of the manufactured home is elevated no lower than the base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement.

(C) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse, or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to NCGS 143.143.15 Additionally, when the elevation would be met by an elevation of the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height an engineering certification is required.

(D) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the local administrator and the local Emergency Management Coordinator.

(4) **Recreational Vehicles.** A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. Recreation vehicles placed on sites shall either:

(A) be on site for fewer than 180 consecutive days;

(B) be fully licensed and ready for highway use; or

(C) meet the requirements of Article 4, Section B and Article 5, Sections A and B(3).

(5) **Elevated Buildings.** New construction or substantial improvements of elevated buildings that include fully enclosed areas that are usable solely for the parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to preclude finished living space and be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(A) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(I) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(II) The bottom of all openings shall be no higher than one foot above grade; and,

(III) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(B) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(C) The interior portion is such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas.

(6) **Temporary Structures.** Prior to the issuance of a development permit, for a temporary structure, the following requirements must be met:

(A) All applicants must submit to the local administrator a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

(I) the name, address and phone number of the individual responsible for the removal of the temporary structure;

(II) The time frame prior to the event at which a structure will be removed;

(III) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and

(IV) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

(B) The above information shall be submitted in writing to the local administrator for review and written approval.

(7) **Accessory Structure.** When accessory structures (sheds, detached garages, etc.) with a value of $3,000 or less, are to be placed in the floodplain the following criteria shall be met:

(A) Accessory structures shall not be used for human habitation;

(B) Accessory structures shall be designed to have low flood damage potential;

(C) Accessory structures shall be firmly anchored in accordance with Article 5, Section A(1); and

(D) Service facilities such as electrical and heating equipment shall be elevated in accordance with Article 5 Section A(4).

(8) **Floodways.** Located within areas of special flood hazard established in Article 3, Section B are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles and has erosion potential. The following provisions shall apply within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated through hydraulic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood Such certification and technical data shall be presented to the local administrator.

(B) If Article 5, Section B(6a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(C) No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision A replacement manufactured home any be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and the elevation standards of Article 5, Section B(3) are met

Section C. Standards for Streams Without Established Base Flood Elevations and/or Floodways.

Located within the areas of special flood hazard established in Article 3, Section B, are small streams where no base flood data has been provided or where no floodways have been identified. The following provisions apply within such areas:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of the stream bank equal to two (2) times the width of the stream at the top of the bank, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Article 5, Section C(1) is satisfied and base flood elevation data is available from other sources, all new construction and substantial improvements within such areas shall comply with all applicable flood hazard ordinance provisions of Article 5 and shall be elevated or floodproofed in accordance with elevations established in accordance with Article 4, Section C(10). When base flood elevation data is not available from a Federal, State, or other source, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade.

Section D. Standards For Subdivision Proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and,

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty lots or five acres

Section E. Standards For Areas Of Shallow Flooding (AO Zones.)

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions shall apply within such areas:
(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade

(2) All new construction and substantial improvements of non-residential structures shall:

(A) have the lowest floor, including basement, elevated to the depth number specified on the Flood Insurance Rate Map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) feet above the highest adjacent grade; or,

(B) be completely floodproofed together with attendant utility and sanitary facilities to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Adopted this the 5th day of June, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Clerk

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to rescind the National Flood Insurance Flood Prevention Ordinance adopted on October 20, 1987.

PUBLIC HEARING - ANNEXATION - GREAT MEADOWS PROPERTY: The City Manager stated that a Public Hearing was open for discussion concerning the annexation of property belonging to Great Meadows Corporation

No one was present concerning the public hearing. The City Manager closed the public hearing

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 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:

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 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 5th day of June, 1990

A. Everette Clark, Mayor

ATTEST

J. Earl Daniels, City Clerk

APPROVED AS TO FORM:

City Attorney

REQUEST FOR VARIANCE - FLOOD ORDINANCE - FULLENWIDER ENTERPRISES: Mr. Mike Fullenwider stated that he would like to withdraw his request for a variance since the proposal was to construct the building at base flood elevation.

REQUEST FOR VARIANCE - FLOOD ORDINANCE - GREAT MEADOWS CORPORATION: Mr. Byron Phillips stated that Great Meadows would also like to withdraw their request for a variance since the proposal was for one foot above base flood elevation

RESOLUTION - BUDGET REDUCTION: Councilman Ayers made a motion to adopt the

following Resolution. The motion was seconded by Councilman Little The vote was as follows: Ayes: Councilman Ayers, Councilman Little, Councilman Stronach and Councilman Tyler. No Vote: Councilman Cross. The motion carried.

RESOLUTION
of the
CITY COUNCIL
of the
CITY OF MARION

WHEREAS, the federal budget deficit was in excess of $275 billion in 1989 and payments of the annual interest on the national debt is approximately 27 percent of all federal spending; and

WHEREAS, the bailout of the savings and loan industry will increase the federal deficit by a substantial amount; and

WHEREAS, said deficit threatens the fiscal integrity of the federal government; and

WHEREAS, said deficit increases the cost of borrowing for all local governments and reduces substancially the needed spending for domestic priorities; and

NOW THEREFORE BE IT RESOLVED thta the City Council of the City of Marion urges the Congress and the President to adopt and carry out a budget deficit reduction plan, with bipartisan support, to reduce spending and provide a balanced federal budget at the earliest possible date.

BE IT FURTHER RESOLVED that the City Council of the City of Marion urges the Congress and the President to give very careful consideration to any new federal legislation which woudl place additional mandates on local governments to provide any programs or services where funding must be provided on the local level.

ADOPTED this the 5th day of June, 1990

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

CONTRACT TO AUDIT ACCOUNTS - JOHNSON PRICE & SPRINKLE: The City Manager presented a contract to audit from Johnson Price & Sprinkle to Council. The amount for the audit was $8,500 00, a fourteen percent increase from the previous year. A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to contract to audit with Johnson Price & Sprinkle for a price not to exceed $8,000.00.

RESOLUTION - OPENING & MAINTAINING A DEPOSIT ACCOUNT -CLINCHFIELD SEWER IMPROVEMENTS: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted to adopt the Resolution entitled "Opening and Maintaining a Deposit Account -Clinchfield Sewer Improvements". A copy of the document can be found filed in the safe with the legal documents.

RESOLUTION - OPENING & MAINTAINING A DEPOSIT ACCOUNT - FOREST ROAD AREA: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted to adopt the Resolution entitled "Opening & Maintaining a Deposit Account - Forest Road Area." The document can be found filed in the safe with the legal documents.

REPORTS:

1. **DECREASE IN STATE FUNDING:** The City Manager stated that he had received word from the North Carolina League of Municipalities that the State was considering a decrease in reimbursements by three percent. He stated that he had talked with Senator Swain and Representative Hunter concerning the matter. He stated that they would like to leave the reimbursements as they were, but they would not give a commitment of being against the bill.

2. **TOWN HALL DAY - REGISTRATION:** The City Manager stated that Town Hall Day would be Thursday, June 21, 1990 and he needed to send in registrations.

Councilman Stronach stated that he would like to go a day before and contact the other persons in the area to meet with the local representatives as a group rather

than individuals

3. **MAYOR CLARK - COMMENTS:** Mayor Clark stated that the City of Jacksonville was proposing that police officers licensed in the state have power outside their jurisdiction in the event they witnessed a crime.

The Police Chief stated that every person who has been arrested knew that if an officer was off duty, he had to act as a citizen, however, he did not like the idea of another officer coming into the city limits and conduct police business. He stated that he was not sure of the program in relation to FLSA regulations with regard to overtime. He stated that he would only be in favor of the idea if the following items were explained in detail:

1. That FLSA would require that the agency where the individual was working pay the agency where the officer had to be absent due to the investigation and other aspects of the crime.
2. That the Chief of Police had specific authority to say yes or no to who could participate which would eliminate officers who seemed to be too "eager".
3. He stated that each area had specific training and he did not want someone with a lower level of training with his officers to come in and work in his department.

A short discussion followed. Council was opposed to the idea.

4. **LAUGHRIDGE CONSTRUCTION COMPANY - REQUEST FOR PLACEMENT OF TRAILER:** A request for a trailer to be placed on Main Street during the construction of the new First Federal Building. The Police Chief stated that the request had been forwarded to him by Mr. Alvin Callahan, Building Inspector

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to deny the request and suggested that the trailer be placed on the site off the road.

5. **COUNCILMAN TYLER - COMMENTS:** Councilman Tyler stated that he had received a complaint from Mr. Hensley on Martin Street that he did not have a street light near his home.

The City Manager stated that Mrs. Lovina Smith, Zoning Administrator had been working with Duke Power and they were experiencing problems in placement of the light.

A short discussion followed. Council directed the manager to work with Duke Power and have the light installed as soon as possible.

6. **REQUEST - PLACEMENT OF SIGN ON COMMUNITY BUILDING LAWN - CIVIC CLUB MEETINGS:** The City Manager stated that he had received a request that a permanent sign be placed on the Community Building lawn with the time and dates of each civic club meetings. Council agreed to deny the request

PRESENTATION OF 1990-1991 BUDGET: The City Manager presented the 1990 1991 Budget to Council. A discussion followed. Council agreed to have a Special Called Meeting of Wednesday, June 13, 1990 at 7:00 P.M. to discuss the budget.

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

June 19, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, June 19, 1990 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; LuAnn Ellis, Secretary; Larry

Ballard, Utility Line Superintendent; Bill Gilsdorf, Chief of Police; Arthur O'Dear, Marion Police Department; Jr. McKinney, Marion Police Department; J.J. Ruppe, Marion Police Department; Nora Arrowood, Marion Police Department; Aaron Adams, Street Superintendent; Freddie Killough, Director, Downtown Merchants Association; Woody Killough, President, Downtown Merchants Association; Eric Milsaps, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS PRESENT: Mrs. Arthur O'Dear, Glenview Street; and Mr. David Tilson, Tilson Sanitation.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the June 5 and June 13, 1990 minutes.

PRESENTATION - INTERMEDIATE LAW ENFORCEMENT CERTIFICATE -ARTHUR O'DEAR: The Police Chief stated that on behalf of the State of North Carolina, he would like to present an Intermediate Law Enforcement Certificate to Sergeant Arthur O'Dear. He stated that he would like to thank Sergeant O'Dear for his hard work and dedication to the department.

Mayor Clark and members of Council expressed congratulations to Sergeant O'Dear.

TILSON SANITATION - REQUEST FOR PICK-UP - VALLEY MOTOR SALES:
The City Manager stated that he had received a request from Tilson Sanitation concerning a request for a pick-up for Valley Motor Sales. The City Manager stated that Valley Motor Sales was a new business leasing the space formerly occupied by Stagecoach Ltd. which Tilson Sanitation had served. A short discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to amend the Tilson Sanitation Contract to include Valley Motor Sales.

TILSON SANITATION - QUESTION OF RATES: The City Manager stated that Tilson Sanitation had been circulating a price list which quoted rates to individuals lower than rates quoted to the City for the same service. He stated that from the figures quoted to individuals, it appeared that the City was paying rent for containers.

Mayor Clark stated that he would like for Mr. Tilson to explain the difference in charges to Council.

Mr. Tilson stated that at the time the City decided to discontinue service, he had lowered his prices considerably hoping to increase his service in the downtown area.

Mayor Clark stated that he had a problem with the charges and the fact that it appeared the City was being taken advantage of.

Mr. Tilson stated that the reduction in charges was not intentional to the City, however, he would be willing to adjust the rates for the City since the new price list had been circulated.

Mayor Clark asked if Mr. Tilson would be willing to work out a charge for the containers with the City Manager and come back to the next meeting for approval. Council was in agreement.

REQUEST - SENIOR CENTER: The City Manager presented a letter from Mrs. Shirley Arrowood of the Senior Center requesting the following items:

1. Free water and sewer service.
2. Weekly mowing of grounds.
3. Annual pruning of shrubbery and trees.
4. Spraying of kudzu along bank.
5. Cleaning out drainage ditch which controls erosion on shuffleboard court.
6. Lining off spaces in parking lot.

Councilman Cross asked if the City was contributing to the Center in any way. He was advised that the City had done some minor pruning and patched potholes in the past.

Councilman Stronach stated that he would be opposed to helping the Center for all items listed if funds were available through the Department of Social Services. He was advised that funds were available through Social Services.

Councilman Ayers stated that he did not wish for Council to get into an on-going project that would take a considerable amount of time or money.

Councilman Cross stated that he would like to suggest that the City take care of items number three through six on the list. Councilman Cross was advised that the City did not spray for kudzu at this time.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to take care of items numbers 3, 5, and 6 as outlined above for the Senior Center.

COUNCILMAN LITTLE - COMMENTS: Councilman Little stated that he would like to request that a guardrail be placed on Claremont Street to extend for approximately fifteen feet for protection. He stated that he walked along that area with his daughter and it was dangerous where the sidewalk ended.

The City Manager stated that it would be advisable to place a three foot chain link fence in the area for protection.

The Street Superintendent was directed to check into the matter.

REQUEST - GDS - ADDITIONAL PICK-UP FOR [redacted] The City Manager presented a request from GDS on behalf of Westwood Chateau concerning an additional pick-up for the condominiums. He stated that at this time, one eight yard container, picked up once per week was providing service to the condominiums.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to allow GDS to pick up the container serving Westwood Chateau Condominiums twice per week.

BID OPENING - SEWER IMPROVEMENTS - CLINCHFIELD AND FOREST ROAD: The City Manager stated that the following bids were received for the Sewer Improvements to the Clinchfield and Forest Road areas:

1.	Hickory Sand Co.	$ 293,940.00
2.	Hobson Construction	296,660.00
3.	Steppe Construction	277,310.00
4.	Terry Brothers Construction	290,937.50
5.	Trans-State Construction	498,145.00
6.	Ronny Turner Construction	306,435.00
7.	Wheeler Construction	296,100.00

The City Manager presented a letter from McGill Associates recommending that the bid be awarded to the low bidder, Steppe Construction. The letter stated that Steppe Construction had completed several jobs for their firm in the past five years and there had been no problems.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to accept the low bid of Steppe Construction in the amount of $277,310.00 for the Clinchfield - Forest Road Sewer Improvements.

PUBLIC HEARING - ZONING OF GREAT MEADOWS PROPERTY: The City Manager stated that a Public Hearing was open for the discussion of the zoning of the Great Meadows Property located on Highway 70 W. There was no one present concerning the Public Hearing.

The City Manager presented a letter from Mrs. Lovina Smith stating that the Planning/Zoning Board would like to recommend that the property be zoned C-2, General Business.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to zone the Great Meadows property located on Hwy 70 W C-2, General Business.

FAMILY SERVICES - REQUEST FOR BINGO IN BASEMENT OF COMMUNITY BUILDING: The City Manager presented a memorandum from the Police Chief concerning the request from Family Services to conduct BINGO in the Community Building. The memorandum stated that in answer to the question at the June 5, 1990 meeting concerning Family Services using the building on a regular basis, findings were that the organization had used the building twice in the last three years. The Attorney General's Office stated that a regular basis would have to be once a week or once a month at the least to be considered.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to reject the request of Family Services to conduct BINGO in the basement of the Marion Community Building.

ORDINANCE - NO THROUGH TRUCKS - SPRING STREET TO RUTHERFORD ROAD: The City Manager stated that the ordinance entitled No Through Trucks - Spring Street to Rutherford Road needed to be rescinded and a new ordinance adopted to include the area from State Street to Rutherford Road.

Upon a motion by Councilman Little, seconded by Councilman Stronach, 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 Rutherford Road and State Street.

Adopted this the 19th day of June, 1990.

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels, City Manager/Clerk

1989 TAX ADJUSTMENTS: The City Manager stated that Tax Collector Claudia Shehan had to take an early maternity leave and that LuAnn Ellis would be taking care of taxes in the interim. He presented the 1989 Tax Adjustments. The adjustments will be filed in the safe under Legal Document Number: 566.

Members of Council requested that Mrs. Ellis obtain additional information on: Buchanan Trucking, Hemphill Tire and Waldensian Bakeries.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted to accept the tax adjustments excluding Hemphill Tire, Buchanan Trucking and Waldensian Bakeries.

PROPOSED WATER RATE SCHEDULE: The City Manager presented a proposed water rate schedule as requested by Council at the June 13, 1990 meeting.

The rates were as follows:

An increase of one dollar on each water bill under twenty thousand dollars for both inside and outside the city limits accounts and the cost per thousand for bills over twenty thousand dollars fifty-three cents per thousand inside and fifty six cents per thousand outside.

No change in the sewer amounts up to one hundred thousand gallons; from one hundred thousand gallons to one million gallons, an increase of five cents inside and ten cents outside; over one million gallons, an increase of four cents inside and eight cents outside.

A discussion followed.

Council was in agreement to hold the rates until a Special Meeting was held to discuss the budget.

SPECIAL CALLED MEETING - SET DATE: A Special Called Meeting was set for Thursday night, June 28, 1990 at 7:00 P.M. in the City Council Chamber for the purpose of adopting the budget and to discuss the proposed water and sewer rate schedule.

ADJOURNMENT: Upon a motion by Councilman Little, 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

June 28, 1990

The City Council for the City of Marion met in Regular Session on Thursday night, June 28, 1990 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Robert Ayers.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Nora Arrowood, Marion Police Department; Larry Ballard, Superintendent Utility Line Maintenance; Glen Sherlin, Public Works Director; Eric Milsaps, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

Mayor Clark called the meeting to order and stated that the purpose of the meeting was to discuss the budget for 1990-1991.

The City Manager stated that he had reports on two matters which were budget related.

1. Tilson Sanitation - Contract Prices: The City Manager stated that he had met with Mr. Tilson and they had agreed for the City to pay Tilson the same price as GDS. Council had no problems with the arrangement.

2. Blanton Parking Lot: The City Manager stated that at this time, the City was renting one parking lot which was behind the Blanton Building for $680.00 per month. He stated that the lot was being used by persons employed in the stores in the Blanton buildings. He stated that he would like to recommend that the City no longer rent the parking lot since the City has several parking lots for persons in the downtown area. A discussion followed. Council agreed to table the matter.

The City Manager stated that the proposed budget included water and sewer rate increases as follows:

CITY OF MARION, NORTH CAROLINA
WATER AND SEWER RATES
Reflected in August, 1990 Billings

WATER RATES

Gallonage	Inside City	Outside City
Min. - 2,000 gal.	$6.00	$11.00
0 - 20,000 gal.	$1.20 per 1,000 gal	$2.60 per 1,000 gal
Over 20,000 gal.	$ .53 per 1,000 gal	$1.06 per 1,000 gal

SEWER RATES

Gallonage	Inside City	Outside City
Min - 2,000 gal	$8.00	$10.00
0 - 100,000 gal	$1.40 per 1,000 gal	$2.80 per 1,000 gal
Over 100,000 gal	$ .95 per 1,000 gal	$1.90 per 1,000 gal
Over 1 million	$ .90 per 1,000 gal	$1.80 per 1,000 gal

SEWER ONLY
(a) Single Family residence $12.00 per month or metered.
(b) All others to be metered.

Councilman Little stated that he felt that the increase was not out of line. He stated that he felt the increase was very appropriate.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the 1990-1991 budget as submitted including the water and sewer rate increase and salary adjustments as recommended.

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, 1990 and ending June 30, 1991 in accordance with the chart of accounts heretofore established for the City:

Administration	$ 242,000
Purchasing & Warehousing	79,900
Inspection & Community Dev.	98,600
Police Department	640,400
Fire Department	241,800
Public Works Admin	86,200
Fleet Maintenance	76,150
Street Department	573,300
Powell Bill	126,000
Sanitation	276,673
Cemetery	21,900
Recreation	49,700
Non-Departmental	218,446
TOTAL	$ 2,731,069

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1190 and ending June 30, 1991:

Prior Year's Taxes	$ 20,000
Current Taxes	933,172
Inventory Taxes	190,000
Downtown Dev Mun Ser Dist	15,000
Tax Penalties & Interest	5,000
Privilege License Taxes	12,000
Interest Earned	60,000
Rents & Concessions	7,000
Misc. Revenues	10,000
Utilities Franchise Tax	290,000
Intangibles Tax	45,000
Beer/Wine Tax Revenue	20,500
Powell Bill Allocation	105,000
Sales & Use Tax	280,000
Sales Tax Refund	20,500
ABC Revenues	100,000
ABC Officer Revenues	6,500
Court Costs, Fees & Charges	3,500
Parking Violations	1,000
County Fire Protection	46,000
Cemetery Revenue	5,000
DOT Reimbursement - Curb Work	15,000
Garbage Fees	31,000
Gas Tax Refunds	5,000
Zoning Income - Inspection Fees	1,500
Maint. Traffic Control Devices	1,500
Cable TV Revenues	17,000
Sale of Surplus Equipment	1,000
Transfer from W/S Fund	100,000
Surplus Appropriated	383,097
TOTAL	$2,731,069

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, 1990 and ending June 30, 1991:

Principal & Interest on Sanitary Sewer Bond	$ 94,800
Service & Misc. Charges	1,200
TOTAL	$ 96,000

Section 4. It is estimated that the following revenues will be available in the Debt Service Fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Transfer from W/S Fund	$ 96,000

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, 1990 and ending June 30, 1991 in accordance with the chart of accounts heretofore approved for the City:

Utility Line Operations	$ 551,700
Filter Plant Operations	410,000
Waste Treatment Plant	620,100
Non-Departmental	374,929
TOTAL	$1,956,729

Section 6. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Fund Balance	$ 196,263
Interest Earned	32,000
Water Sales	600,000
Water Taps	8,000
Misc. Income	9,266
Cut On Fees	3,000
Sewer Service	500,000
Sewer Taps	6,000
Sales & Use Tax Refund	200,000
Water Syst. Dev. Charge	8,000
Sewer Syst. Dev. Charge	10,000
Tank Truck Charges	200
Water Service Charge	220,000
Sewer Service Charge	164,000
TOTAL	$1,956,729

Section 7. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Inventory (Supplies)	$ 205,000

Section 8. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Transfer from General Fund	$ 15,000
Transfer from W/S Fund	15,000
Purchases by Other Funds	175,000
TOTAL	$ 205,000

Section 9. The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Reserved for future approp	$ 617,000

Section 10. It is estimated that the following revenues will be available in the Capital Reserve fund for the fiscal year beginning July 1, 1990 and ending June 30, 1991:

Transfer from General Fund	$ 77,000
Transfer from Water/Sewer Fund	76,800
Interest on Investments	8,500
Fund Balance Appropriated	445,631
TOTAL	$ 617,931

Section 11. There is hereby levied a tax at the rate of fifty-nine ($.59) per one hundred dollars ($100) valuation of property as listed for taxes as of January 1, 1990 for the purpose of raising the revenue listed as "Current Year 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 $164,754,932 and estimated rate of collection of ninety-six percent (96%). There is also hereby levied a tax at the rate of fifteen cents ($.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 $1,000.00 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 28th day of June, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

The City Manager stated that the Police Chief had a line item in the budget for trail bikes for the department. He stated that the funds had been left in the budget, however, he asked if they wished for the funds to be spent in another manner. Council asked that the Police Chief spend the funds in another manner.

Councilman Little stated that he though that the City Manager's recommendation on contributions was appropriate. He stated that the recommendation had been to give each organization one half the funds now and then one half the funds after January 1.

The discussion continued. Council asked that the City Manager leave so that his salary adjustment could be discussed.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to give the City Manager a five percent increase.

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

July 17, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, July 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; Robert Parker, Personnel Director; Nora Arrowood, Police Department; Van McKinney, News Reporter W. B.R.M. and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Glenn Rhodes, Isothermal Planning & Development Commission; Mentesames Austin, Community Care Center and Mrs. Glenda Bruner, Community Care

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the June 19 and June 28, 1990 meetings.

COMMUNITY CARE CENTER - MRS. GLENDA BRUNER AND MR. JAMES AUSTIN: Mrs. Glenda Bruner and Mr. James Austin of the Community Care Center appeared before Council concerning a donation to the Center from the City Budget.

Mrs. Bruner stated that they hoped that the City planned to contribute $5,000.00 to the Center as they had last year.

Mr. Austin stated that the Center was experiencing financial difficulties this year and had a shortfall in the budget of $5,840.00 and would like to ask for additional help from the City if possible. He stated that they had additional expense increases for rent and that the salaries included amounts for the staff at the Foothills Area Program.

Mayor Clark asked if the Count contributed toward the program. He was advised that the ABC Revenue was the only donation from the County. Mayor Clark stated that the ABC Revenue was actually from the City since they operated the ABC Store, however, the County disbursed the funds.

Councilman Stronach asked if the organization had contacted the United Way for funding. Mrs. Bruner advised that only a small percentage oft he funds raised by the United Way were used for drug and alcohol abuse. She stated that they had asked them for help several times, but had been denied.

Mayor Clark stated that the 1990-1991 Budget had been adopted and that the figures were tight. He stated that he did not see how any additional funds could be disbursed at this time.

The City Manager stated that in the future, they may wish to submit the request to Council prior to May during the time the budget is being prepared. He also asked if the Center would bill the City for one-half the amount to be contributed at this time and then again in January so that the funds could be disbursed.

GDS - REQUEST - PICK UP FOR FRESHOUR'S MARKET #3 - FORMERLY IN AND OUT: The City Manager presented a request from Mr. Tom Winkler of G.D.S. concerning garbage pick-up for Freshour's Market #3 which was formerly In & Out. He stated that there were no changes in the service, only the name of the business had changed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve the request for G.D.S. to serve Freshour's Market #3.

1989 TAX ADJUSTMENTS: Mrs. LuAnn Ellis, Deputy Tax Collector presented the following 1989 Tax Adjustments to Council:

1. Buchanan Trucking - Business located on Hwy 221 N and Hankins Road.

2. Waldensian Bakery - The vehicles are listed in the Old Fort Township.

3. Hemphill Tire Company - Ms. Dianne Alred of McDowell County Business Listing advised that during the County audit, it was discovered that some of the equipment had been depreciated using the wrong schedule.

Councilman Ayers stated that he had seen some trucks belonging to Buchanan Trucking parked at the business located on Hwy 70 W inside the City Limits. A discussion followed. Council requested that the Police Department locate the office for the trucking firm.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to approve the tax adjustments for Waldensian Bakery and Hemphill Tire Company.

J. BERTRAM KING - CONTRACT FOR ARCHITECTURAL SERVICES - NEW FIRE STATION: The City Manager stated that Mr. King had met with the volunteer firemen and the City Manager last week concerning preliminary work for the proposed fire station. He stated that at this time, Mr. King was looking at a one story structure rather than a two story structure.

The City Manager stated that Mr. King had provided the City with a contract. He stated that Council needed to authorize the Mayor and City Manager to execute the document on behalf of the City.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to authorize the Mayor and City Manager to execute the architectural contract with Mr. J. Bertram King on behalf of the City for the construction of a new fire station.

ROCKY PASS RESTHOME - WATER LINE EXTENSION PROJECT: Mr. Glenn Rhodes appeared before Council concerning the water line extension project for Rocky Pass Rest

Home. Mr. Rhodes stated that the County had filed an application for a loan for funds to complete the project, however, the application had been denied because they did not own the system. He stated that the County would like for the City to file the application for the loan, and have an agreement with the County to repay the loan.

Mr. Rhodes stated that the loan would be for approximately $105,150.00 for the project with an interest rate which would not exceed four percent. This figure would include any materials, engineering, contingencies and any contract work for crossing the river and problems if the City crews ran into rock along the way.

A discussion followed. Mr. Rhodes stated that the City could apply for the loan under the emergency status since the facility would have to close if the line could not be installed.

The City Manager asked Mr. Rhodes what would happen if the expenses were more than the amount of the loan. He was advised that there were no provisions for re-applying for additional funds if the project ran over.

Councilman Little stated that he felt that the first priority for the City was to help persons within the municipal limits. He stated that he did not want the City crews to work on this project rather than the projects for Forest Road and Clinchfield that the City was already obligated to complete.

Councilman Stronach stated that he was in agreement with Councilmen Little, however, he did not feel that it would take too long to complete the Rocky Pass Project.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution Authorizing the City Manager and Mayor to execute the preliminary documents necessary for applying for the loan and to hold all obligations to the City until an agreement had been made with the County for repayment of the funds.

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The North Carolina Clean Water Revolving Loan and Grant Act of 1987 has authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, and

WHEREAS, the City of Marion has the need for and intends to construct a water supply system to serve the Rocky Pass area. The project will serve approximately 100 residents.

WHEREAS, the City of Marion intends to request State and Loan assistance for the project.

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

That the City of Marion will arrange financing for all remaining costs of the project, if approved for a State loan award.

That the City of Marion will adopt and place into effect on or before completion of the project a schedule of fees and charges which will provide adequate funds for proper operation, maintenance and administration of the system.

That the City of Marion will provide for efficient operation and maintenance of the project on completion of construction thereof.

J. Earl Daniels, City Manager, and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Marion with the State of North Carolina for a loan to aid in the construction of the project described above.

That J. Earl Daniels, City Manager and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the City of Marion has substantially complied or will comply with all Federal, State and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grant and loans pertaining thereto.

Adopted this the 17th day of June, 1990, in Marion, North Carolina.

_____

A. Everette Clark, Mayor

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting City Clerk of the City of Marion does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Marion duly held on the 17th day of July, 1990; and further, that such resolution has been fully recorded in my office. **IN WITNESS WHEREOF**, I have hereunto set my hand this 17th day of July, 1990.

J. Earl Daniels, City Manager/Clerk

GALEY & LORD - PRETREATMENT PERMIT: The City Manager stated that he had provided each board member with a copy of a letter to representatives of Galey & Lord concerning their pretreatment permit. He stated that the permit provided that Galey & Lord must do something about equalization of wastewater flow from their facility.

ANNUAL CERTIFICATION OF FIREMEN: Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to approve the Annual Certification of Firemen as follows:

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE AUDITOR
FIREMEN'S AND RESCUE SQUAD WORKER'S PENSION FUND DIVISION

ANNUAL CERTIFICATION OF FIREMEN

General Statutes, Chapter 118-38 requires that all certified fire departments certify annually to the North Carolina Firemen's Pension Fund a complete roster of its qualified firemen.

The following certification along with a complete roster of all active firemen* as of June 30 of each year must be submitted to the North Carolina Firemen's Pension Fund, 300 North Salisbury Street, Raleigh, North Carolina on or before July 31. Failure to submit this certification along with a complete roster will result in the loss of the death benefit provided by the State.

CERTIFICATION

We, the Marion City Council, in our capacity as the governing body of the Marion Fire Department, certify that we have examined and find that attached is a true and accurate list of all active firemen* of the Marion Fire Department, address 20 North Logan Street, County of McDowell, North Carolina.

A. Everette Clark, Mayor

Date

FOR FIRE DEPARTMENT CHIEF ONLY

I, Arthur C. Edwards, Chief of the Marion Fire Department, certify the attached roster is a true and accurate list of all eligible firemen. (Eligible firemen are firemen who have met the required 36 hours of meetings and drills during the last calendar year (July 1 - June 30). In addition, the term "eligible firemen" shall mean those firemen who have joined the fire department within the calendar year and are in the process of completing the required 36 hours of meeting and drills.

Arthur C. Edwards, Chief

Date

ROSTER MUST BE ATTACHED WITH NAMES IN ALPHABETICAL ORDER.

*Firemen on authorized "Leave of Absence" are to be included on the roster. Whenever a new fireman is added to the roster during the year, his or her name should be forwarded to the Pension Fund Office immediately.

ROSTER OF THE MARION FIRE DEPARTMENT AS OF JULY 1, 1990

NAME	ADDRESS	SOCIAL SECURITY NO.
Bradley, Allen	425 Airport Rd.	239-02-0678
Brown, Fred	623 State Street	240-46-3098
Cate, Lee	PO Box 13	241-48-8140
Crisp, Douglas	Rt. 2 Box 162-A	242-13-9251
Dark, Ralph M.III	100 Crescent Dr.	242-86-7797
Edwards, Arthur	26 Pulliam St.	246-34-6695
Edwards, Bruce	693 Maple Ave.	237-56-0350
Hall, Marvin	326 Hillcrest Dr.	237-48-3220
Harris, Tommy W.	1305 East Court	245-52-2760
Hollifield, James	c/o West Court Food	240-46-3335
Hollifield, Millard	410 Woodland Dr	245-48-5402
Laughridge, John C	215 S. Garden St.	244-04-1898
Laughridge, John M	116 Greenwood Dr.	239-80-7405
Mace, Dewitt	505 Miller Ave.	245-44-7058
McCarthy, Roger	402 Rutherford Rd.	241-88-7093
Milligan, Thomas	PO Box 1556	244-68-1106
Morris, Jimmy	401 Stroud St.	245-08-7939
Nanney, Fredrick	923 Perry St.	242-11-1035
Neal, James III	302 Hillcrest Dr.	245-72-9325
Owenby, Kevin	217 Nix Creek Rd.	245-27-8330
Parker, James	Rt. 1 Box 18	242-90-1128
Poteat, Billy	151 McKinney Rd.	239-72-2338
Poteat, Jerry	222 Highland Dr.	244-66-3485
Poteat, Kenneth	900 Gilbert Street	240-15-9682
Poteat, Kevin	222 Highland Dr.	244-49-6470
Presnell, Charles	277 Worley Rd.	238-82-9830
Price, Dennis	517 Reservoir Rd	245-68-8508
Reese, John	14 Vine St.	242-82-7999
Smith, Eddie	508 Rutherford Road	244-68-1014
Smith, William III	107 Dogwood Lane	245-44-5503
Stevens, Jerry	Rt. 1 Box 612	242-72-8781
Suttle, Charles	411 Stroud St.	239-84-9781
Thomas, Willard	PO Box 344	240-08-1296
Willis, James	625 Veterans Dr.	241-88-5758
Wilson, Bryan	109 Devonwood Dr.	241-80-2625
Young, William	129 Lincoln Ave.	245-72-8996

RESOLUTION - RECREATION COMMISSION: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following Resolution:

A RESOLUTION TO AMEND THE STRUCTURE AND ORGANIZATION OF THE RECREATION COMMISSION FOR THE TOWN OF OLD FORT, THE CITY OF MARION, AND THE COUNTY OF McDOWELL

WHEREAS, by virtue of Section 160A-351 of the North Carolina General Statutes the need for continued support for recreational programs and facilities is a matter of public policy in the State of North Carolina; and

WHEREAS, the Board of Aldermen of the Town of Old Fort, the City Council of the City of Marion, and the County Commissioners of McDowell County believe that adequate recreation programs and facilities can best be advanced by placing the recreation system under the general policy making direction of a Joint City-County Recreation Commission as authorized by Article 20, Sections 160A-460 through 160A-465 of the of the General Statutes and that the specific administrative direction and oversight of this program shall be provided by the County of McDowell.

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

Section 1. That there is hereby created a commission to be known as the McDowell County Recreation Commission.

Section 2. That the Recreation Commission shall be composed of seven members to be appointed as follows:

(a) One member appointed by the Board of Aldermen of the Town of Old Fort

(b) Two members appointed by the City Council of the City of Marion

(c) Three members appointed by the County Commissioners of McDowell County

(d) One member appointed at large by the appointed Recreation Commission.

Appointed Recreation Commission members shall serve a two year term until their successors are appointed. A Recreation Commission member shall serve no more than two consecutive appointments but may be reappointed after a two year vacancy.

Vacancies in the Recreation Commission shall be filled for the unexpired term by the original appointing authority. The original appointing authority may remove any member appointed by such authority at any time. The members of the Recreation Commission shall serve without compensation.

The Town Clerk of Old Fort, the Marion City Manager, and the McDowell County Manager shall serve as advisors without voting privileges and their terms shall automatically terminate at any time after their affiliation with said governmental unit ends.

Section 3. That the Recreation Commission shall appoint from its membership a chairman and such other officers as it may deem necessary for the orderly procedure of its business and may adopt by-laws, rules and regulations governing the operation and conduct of the recreational facilities operated by the Recreation Commission. The Recreation Commission shall hold a regular meeting every month. All meetings shall be open to the general public and notice of the time and location of each meeting shall comply with the North Carolina Open Meetings Law. A majority of Recreation Commissioners shall constitute a working quorum. Minutes of all meetings shall be recorded and distributed to each Recreation Commission member and each governmental unit.

Section 4. That the Recreation Commission may provide, maintain, operate, and supervise the public parks and playgrounds, athletic fields and recreation centers and other recreational facilities owned or controlled by the Town of Old Fort, the City of Marion and the County of McDowell or leased or loaned to the Recreation Commission by the owners thereof when requested by said unit. The Recreation Commission shall have supervision of the facilities and activities provided and conducted on or in connection with the parks, playgrounds, athletic fields, and recreation centers provided, and shall have the power to conduct any form of recreational or cultural activity.

Section 5. That the Recreation Commission may accept any grant, gift, bequest, or donation or any personal property offered or made for recreational purposes and with the approval of the governing units, may accept any grant, gift, or devise of real estate. Any gift, bequest, of money or other personal property, grant, or devise of real estate shall be held, used, and finally disposed of, in accordance with the terms or conditions under which such grant, gift, or devise is made or accepted. The Recreation Commission shall have no authority to enter into any contract or incur any obligations binding upon the governmental units other than current obligations or contracts to be fully executed within the then current fiscal year and all within the budget appropriations made by the governmental units. That any grant or devise of real estate be deeded to the governmental units.

Title to all property donated shall be deeded so that each governmental unit shall hold equal title to the property. In the event this agreement is terminated, all property within municipal boundaries or property purchased with municipal revenues shall be deeded to said municipality. All property outside municipal boundaries or purchased with McDowell County revenues shall be deeded to McDowell Count. All recreational properties will continue to be used for recreational purposes. Properties purchased after the effective date of this resolution shall be subject to the conditions agreed upon at that time.

Section 6. That the Recreation Commission shall recommend to the McDowell County Board of Commissioners the appointment or termination of a Recreation Director. The Recreation Director shall possess the necessary training and abilities to direct and organize a community recreation system. The Board of Commissioners reserves the right to approve or disapprove this recommendation. The Recreation Director will be employed by McDowell County. Such other trained persons as may be necessary in the maintenance of the operation of the recreation facilities and system may be employed by the Recreation Director following the hiring practices established by the McDowell County Board of Commissioners.

Section 7. That the Recreation Director and other employees within the Recreation Department shall be designated as employees of McDowell County and shall follow and adhere tot he McDowell County Personnel Policy and all other directives and policies adopted by the McDowell County Board of Commissioners. Direction on specific administration matters will be implemented by the McDowell County Manager. Direction on general policy matters related to recreation programs and priorities will be developed and administered by the Recreation Commission. All grievances, suggestions, and questions concerning recreation programs or recreation policy should be presented to the Recreation Commission.

Section 8. That the Recreation Department will maintain an operations budget, a capital budget, and a program budget.

(a) Operations Budget - The operations budget will include funds appropriated by the three governmental units. These funds will be budgeted based upon a percentage of the total current expense operating budget. The City of Marion will budget ten (10) percent

and the Town of Old Fort five (5) percent of the total McDowell County current expense allocation. The amount of increase in this percentage for the City of Marion and the Town of Old Fort shall not exceed ten (10) percent within any fiscal year. The operations budget is based specifically on the administrative and routine costs incurred to operate the recreation department.

(b) Capital Budget - The Recreation Department may receive revenues from governmental units for capital expenses that will be held in a separate capital budget. If a request for a capital item is to be made that is facility related, the request shall be made to the governmental body whose jurisdiction the facility is related. This governmental unit may accept or deny the funding.

(c) Program Budget - The Recreation Department shall also annually submit to McDowell County a program budget comprised of those non-governmental revenues derived from the operation of Recreation Programs and the specific expenditures incurred to operate those programs.

These budgets shall be independently maintained and monies cannot be transferred from one budget to another without the approval of the Board of Commissioners. All procedures for handling finances established by the State of North Carolina and the Board of Commissioners shall be adhered to. Specifically, this would include, but not limited to, the North Carolina Budget and Fiscal Control Act, the McDowell County Cash Management Policy, and purchasing policies established by the McDowell County Cash Management Policy, and purchasing policies established by the McDowell County Board of Commissioners.

Section 9. That such powers as are now provided by statute of the State of North Carolina relating to the development and operation of recreation systems, parks, and playgrounds are hereby vested in the Recreation Commission to be exercised by it, subject to any and all restrictions contained in said statutes and agreed to in this resolution.

Section 10. Any governmental unit may terminate its obligation under this resolution by giving written notice of its intention to do so on or before May 1 preceding the beginning of the next fiscal year of such governmental units. This resolution shall remain in force and effect unless and until it is terminated as herein provided.

Section 11. That all resolutions and ordinances of each governmental unit in conflict herewith area hereby repealed as of July 11, 1990.

Section 12. That this resolution and agreement may be amended only by agreement of each governmental unit.

ADOPTED this the 17th day of July, 1990.

_____
Chairman, McDowell County Board of Commissioners

_____
McDowell County Clerk to the Board

_____
Mayor, City of Marion

_____
Clerk to the Board

_____
Mayor, Town of Old Fort

_____
Old Fort Clerk to the Board

INSURANCE - CAFETERIA PLAN: The City Manager stated that representatives form the League of Municipalities had met with him concerning a Cafeteria Plan for employees with dependant insurance coverage. He stated that the plan allowed the employees to pay the premiums before any taxes were taken from their pay allowing the payments to be tax sheltered. He stated that it would allow the employees to take home more money.

A discussion followed. A question was raised concerning the cost. The City Manager advised that there was a one time fee of $500.00 to the City to purchase the programs for the computer to allow the deductions.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to enter into the Cafeteria Plan if there was no additional cost to the City other than the initial $500.00 and no additional cost to the employees.

REPORTS:

1. WATER SHED REGULATIONS - WORKSHOP: The City Manager stated that he and Buck Byrd, Chief Operator, Water Filter Plant would be attending a workshop for Water Shed Regulations on Thursday. He stated that there would be additional costs to the City when those regulations went into effect.

2. COUNCILMAN AYERS - COMMENTS: Councilman Ayers asked if there wan any progress on the Logan Street/Montevista Avenue sight problem. The City Manager stated that the last he had heard was that DOT was trying to acquire the necessary right-of-way.

3. THOMPSON-GORDON-SHOOK - BRIDGE REPLACEMENT: The City Manager stated that he had received the engineering contract for the bridge replacement but had not had a chance to review them.

4. POLICE DEPARTMENT - REQUEST - ELIMINATE ONE PARKING PLACE: Ms. Nora Arrowood stated that the Police Chief would like to recommend that one parking place on Main Street in front of City Barber Shop be eliminated to allow emergency vehicles exiting from the Courthouse to be able to see further down Main Street. A discussion followed.

5. POLICE DEPARTMENT - LIMITED TIME PARKING PERMIT FOR CONTRACTORS: The Police Chief stated that he would like to recommend that a limited parking permit be issued for contractors who block portions of sidewalks. He stated that he would like to charge $5.00 per day for the permit and issue them only if the contractor had the appropriate privilege license, building permits and an agreement with the property owner to block the sidewalk. He stated that he would not issue the permits for longer than one week at a time.

A discussion followed. The City Manager stated that the building code did not allow persons to throw materials from inside a building or from on top of the building without providing a covered walkway for pedestrian's safety.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

August 7, 1990

The City Manager for the City of Marion met in Regular Session on Tuesday night, August 7, 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, Joe Tyler and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Nora Arrowood, Police Department; Glen Sherlin,

Public Works Director; Freddie Killough, Director, Downtown Business Association; Woody Killough, President, Downtown Business Association; Robin Hood, Chairman, Planning/Zoning Board; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio.

GUESTS: Woody Hartin, North Carolina Department of Economic and Community Development; Jeff Allison, Fullenwider Enterprises; Marrianne Duke, Kentucky Fried Chicken; Tony Austin, The McDowell House; Jack Sheaffer; and the following Boy Scouts from the Mecklenburg Chapter: David A. Brown; Ted Bohen; Stefan Reef; John Penley; Chris Harris, David Johnson; William Joseph; Michael Tucker; John Collins; Eric Hayden; Mike Peppers; Mike Rudis; Brian Gatseli; Michael Watts; Russell Quinn; Kevin Matrini; Ryan Pennigan; John Miles; Jason Kidd; Ted Bouden; Joel Handschin; Dennis Fisher; Simon Martin; Matt Davis; H.B. Morris; Nathan Borwn; Adam Church; Joey Sykes Jr; Rodney Harris; Josh Finestrom; Jeff Sterling; Matt Gavean; Keenan Brown; Brian Leftwich; John Stephens; Chris Austin; Mark Gabriel; Cory Hubbs, Chuck Vetteyan; Roy Petty; Nick Martin; Matt Oswald; Ben Nichols; Matt Wilson; Chris Holleman; Ganett Robinson; Michael Watts; Matt Roberts; Jason Darwin; Damion Massey; Charles Kitchen; Steve Burgess; Ryan Pennigan; Patrick Nanney; Francis Cronin; Kevin Martin; and Tom Bender.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the July 17, 1990 meeting.

TAX REFUND REQUEST - MR. JACK KIRSTEIN: The City Manager presented a memorandum from Mrs. LuAnn Ellis, Deputy Tax Collector concerning a request for a refund for Mr. Jack Kirstein. The memorandum stated that Mr. Kirstein had been billed for a building he had torn down several years ago. The amount requested was for $214.90 for the years, 1985 -1989.
Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to approve the tax refund to Mr. Jack Kirstein in the amount of $214.90.

PUBLIC HEARING - ZONING ORDINANCE - OFF PREMISE SIGNS: The City Manager opened a Public Hearing for the purpose of discussing an amendment to the City of Marion Off Premise Sign Ordinance.

Mr. Robin Hood stated that the Planning/Zoning Board had received a request for a variance to the Off Premise Sign Ordinance from Kentucky Fried Chicken. Mr. Hood stated that the present ordinance allowed signs a height of thirty feet and the request was for a sign seventy-five feet high.

Mr. Hood stated that the board had a workshop on signs and had looked at ordinances of surrounding areas concerning heights of signs. He stated that after much consideration, the board had voted against granting the variance or changing the ordinance to allow signs with a height more than thirty feet.

Mr. Jeff Allison stated that he was present as a representative of Kentucky Fried Chicken. He stated that he was aware that the request would set a precedent for the By-Pass area, however, his firm would like to have a sign higher than thirty feet in the area.

Mayor Clark asked Mr. Allison if the firm had looked into advertisement by billboards. Mr. Allison advised that they had, however, there was no location available at this time.

Councilman Little stated that he appreciated the work the Planning Board had done and he saw no reason to change the ordinance.

There being no further discussions, the City Manager closed the Public Hearing.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to approve the recommendation of the Planning/Zoning Board with no amendment to the present Off Premise Sign Ordinance regarding the height of signs.

TAX ADJUSTMENT - BUCHANAN TRUCKING: The City Manager presented a memorandum from Mrs. LuAnn Ellis, Deputy Tax Collector. The memorandum stated that in accordance with McDowell County tax records, the address for Buchanan Trucking was Hwy 70 West. The listing office was not sure of a number or location on Hwy 70 for the firm.

A police report was also attached to the memorandum which stated that in 1989 during a business survey, the office for Buchanan Trucking was located at 650 Hwy 70 W (on the Five-Lane). The report also stated that some of the trailers and trucks were being parked on a lot on Hwy 70 W just outside the City Limits. When the license plate numbers were checked, some were found to be listed to 650 Hwy 70 W and some just as Hwy 70 W.

The memorandum stated that based on these findings, Buchanan Trucking should be billed for taxes and in the event of a dispute, to allow Mr. Buchanan to come to Council.

Councilman Little stated that since action was need to release the bill, he did not see that nay action should be taken since the recommendation was not to release the bill. Council was in agreement to table the matter indefinitely or until Mr. Buchanan disagreed with the billing.

WEST HENDERSON STREET, NORTH SIDE - CURB AND SIDEWALK REPLACEMENT - ETTA PACKAGING: The City Manager advised Council that the Department of Transportation was going to install new Curb and Gutter on the north side of the West Henderson Street next to the Etta Packaging Building. The City will install a new sidewalk in the area. The Department of Transportation has asked the City to install a drainage pipe from a new drainage basin box to be installed by the DOT to a storm drainage manhole in the middle of Burgin Street.

Mayor Clark stated that he was of the opinion that since the basin belonged to DOT, they should handle the project.

Councilman Little stated that he would like to see the problem resolved, however, he did not think it was the City's responsibility. It was the general consensus of Council that the project was a part of the DOT drainage system and should be left up to DOT to solve.

SLUDGE LAGOON REPAIRS - BID TABULATIONS: The City Manager stated that a bid opening had been held on Thursday, August 2, 1990 concerning repairs to the sludge lagoons at the Water Filter Pant. The bids received were as follows:

Perry M. Alexander Construction Co.	$ 36,600.00
Terry Brothers Construction Co.	60,570.00
Huntley Construction Co.	103,562.00

The City Manager stated that it was the opinion of the Chief Operator for the Water Filter Plant, the Public Works Director and himself to reject the bids and do the work with City forces. He stated that the cost estimate for the work last year had been $10,000.00 and the estimate this year was $37,500.00.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to reject the bids received for the sludge lagoon repairs and to complete the work with City forces.

GARBAGE PACKER TRUCK - BID TABULATIONS: The City Manager stated that a bid opening had been held on Monday, August 6, 1990 for the purpose of purchasing a garbage packer truck.

The bids were as follows:

Amick Equipment Co.	$ 57,101.25
Quality Equipment & Supply	62,295.00

The City Manager stated that there was an option for the truck bid on by Amick which would be an increase of $3,900.00. He stated that he had been advised by both the mechanic and the Public Works Director that it would be in the best interest of the City to accept the bid of Amick Equipment with the increase due to the added option.

Councilman Stronach asked if the truck and packer unit could be bid separately. He was advised that it could be done but it would not be recommended due to problems in the past where units had been bid separately.

Mayor Clark stated that in the past, when items to be put together had been bid separately, neither party would accept responsibility in the event of a problem.

The City Manager stated that a truck for the fire department had been bought as separate units and the truck had to be cut to fit the equipment.

Mr. Glen Sherlin stated that when bidding for equipment of this type, the specifications were based on the equipment and the companies fit a truck to the equipment. he stated that it was not advisable to bid the items separately.

Councilman Ayers stated that he had several questions as follows: 1. Was the other truck purchased from Amick? He was advised that the truck was purchased from Worth Keeter which was out of business. 2. He stated that he would like to know if there would be any problems with servicing the truck since the company was in Lexington, South Carolina. He was advised that the nearest location for the other tuck was in Charlotte.

Councilman Ayers stated that the bid for Amick did not specify the model of the truck. He stated that the other bid specified a 1991 model truck.

The discussion continued.

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

unanimously to accept the low bid of Amick Equipment in the amount of $57,101.25 with an added option increasing the cost by $3,900.00 on the condition that the truck is a 1991 model.

THOMPSON, GORDON & SHOOK - ENGINEERING CONTRACT: The City Manager stated that he had received the contract for the bridge replacement on Claremont Avenue from Thompson, Gordon & Shook. He stated that the project would be done with eighty percent federal funding and twenty percent local funding. He stated that the project would run from September 30 through October 1 which is the fiscal year for the federal government. The total cost of the project is estimated at $160,000.00.

Councilman Stronach stated that he felt that the figure was too much. He asked if the City could back out of the project. It was suggested that corrugated pipe could probably be installed at less cost than the bridge.

A discussion followed. Council directed the City Manager to ask Mr. Earl McEntire or another representative of Thompson, Gordon & Shook to meet with them at the next meeting to discuss the cost of the project upon the condition that there would be no additional cost to the City for the representative to attend the meeting.

COMMUNITY BUILDING GROUNDS - COMPLAINT: Mayor Clark stated that Mr. Jack Sheafer was present at the meeting and would like to discuss several concerns he had with the Community Building Grounds.

Mr. Sheafer stated that he had moved to a house that overlooks the park at the Community Building about four weeks ago. He stated that his main concern was that the Police Department did not get the lights at the basketball court turned off and there were persons there past midnight almost every night. He stated that the area was quite noisy at times. He stated that he had called the police department and once was asked why should they turn the lights off. Mr. Sheafer stated that he takes his small daughter to the park for activities in the afternoons and children are sitting on broken concrete which should be fixed so they would have some where to sit. He stated that he was also concerned because there were no restroom facilities and there were drunks in the area.

Councilman Cross stated that he felt that eleven o'clock was late enough in the evening for persons to be playing basketball or tennis in the park. Mayor Clark stated that he felt that the area needed to be signed.

Councilman Ayers stated that he knew of several young people who worked the three to eleven shift and would go to play basketball when they got off from work. Mayor Clark stated that he felt that they should play ball in another area if they were disturbing the residents in the area.

The City Manager stated that he would like to make the following recommendations: 1. Sign the area at the basketball and tennis courts that the area closed at eleven o'clock p.m.; 2. To close and permanently lock the gate that is used for a service road; 3. That the police department check the area regularly for intoxicated persons.

The City Manager stated that there was no way to leave a door open into the basement to use the restroom facilities or if some facilities were built in the area, it would be more of a problem that the restrooms on Main Street which were recently torn down.

The discussion continued. Council agreed to the recommendations of the City Manager and if there were any additional problems, to refer them to the Community Building Committee.

Councilman Ayers stated that while they were discussing the basketball courts, he would like to know what was being done about the water that stood in the middle of the court. He was advised that the contractor had been back to work on the courts, however, the problem had not been resolved at this time.

BOY SCOUT TROUP - MECKELENBURG CHAPTER: Mayor Clark stated that he would like to recognize the Boy Scouts attending the meeting. He was advised that the boys were at Camp Grimes and were fulfilling requirements for the Eagle Scout Badges.

REPORTS:

1. **COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that he had received several complaints concerning the sidewalk at the First Baptist Church. He was advised that a traffic pole to go in the corner of the sidewalk had not been received.

2. **FREDDIE KILLOUGH - COMMENTS:** Mrs. Killough stated that she had several items to report on as follows: 1. She would like to thank Council for the help with the Forth of July celebration. 2. That the annual sidewalk sale had also been a success; 3. That no word had been received from Southern Railroad

concerning the depot, that she had been advised that the depot was a gift and they would contact her when they had some news; 4. The Historical nomination was in the working and would be ready for the January nominations.

3. CODE OF ORDINANCES: The City Manager stated that the Code books had been received and each Council member had been provided a copy. He stated that the water and sewer section had been omitted and several sections had to be amended.

RECREATION COMMISSION - RESOLUTION: The City Manager stated that he had received a copy of the resolution passed by the County Commissioners concerning the Recreation Commission. He stated that the Old Fort Board of Aldermen had not adopted the resolution at this time.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted to table the matter.

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

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

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to not purchase the property in question.

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

August 21, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, August 21, 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, John Cross and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Bill Hunnicutt, chief Operator Waste Treatment Plant; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. & Mrs. Bill Greenlee, Mothers Against Drunk Driving; Mrs. Virginia Lingerfelt, Mothers Against Drunk Driving; Mr. Carl Hall, Halls Septic Tank Service; Mr. Steve Poteat, McDowell County Health Department; and Mr. Carl Sheaffer, North Carolina Waste Management Service.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to approve the minutes of the August 7, 1990 meeting.

MR. CARL HALL - HALL'S SEPTIC TANK SERVICE: Mr. Carl Hall of Hall's Septic Tank Service appeared before Council concerning problems he is having with new regulations concerning the disposal of waste materials.

Mr. Hall stated that the new regulations had put an extreme hardship on his business and he did not know where he could turn for help. He stated that he had brought Mr. Carl Sheaffer of the North Carolina Waste Management Services to explain the new regulations.

Mr. Sheaffer stated that all operators of services such as Mr. Hall's must be registered with the State at this time. He stated that sixty percent of the

operators registered disposed of their waste at the waste treatment plants. He stated that the other operators used land disposal sites, however, with the slope of the mountains and most flat places in this county being close to water sources it created an even greater hardship on Mr. Hall.

Councilman Ayers asked if there was any consideration by the State to the western part of the state when the regulations were being adopted. He stated that if any variance would be allowed for this area. Mr. Sheaffer advised that the set backs had been reduced but it did not help problems in the mountains.

Councilman Cross asked if there were other operators in the same situation. He was advised that most operators in the western part of the state were in the same situation.

Councilman Stronach asked if there would be problems with toxic wastes in the material Mr. Hall would be dumping in the system if he were allowed to do so. He also asked what the City's liability would be if there were toxic wastes in the material. He was advised that the City should sample the material before it was dumped into the plant to make sure that there were no toxic wastes.

Councilman Ayers asked if there were any alternative methods to dispose of the waste. He was advised that there were, however, the cost to treat the waste was not feasible for the smaller operators.

Councilman Little asked if there were other operators in the County. He was advised that Mr. Hall was the only operator.

Mr. Hall stated that he did not pick up waste materials from any businesses that he only dealt with household waste.

Councilman Stronach asked what the average number of gallons of waste would Mr. Hall have to dispose of per year. Mr. Hall stated that the amount varied. He stated that the most in one day would be five thousand gallons.

The City Manager stated that there was no question that the service had to be provided, however, he was concerned about the cost. He stated that there had just been a rate increase and it would not be fair to add additional cost to the customers for treatment of Mr. Hall's waste. Mr. Sheaffer stated that the facilities that accepted this type waste charged a fee per load to the operator. He stated that the fees ranged from five dollars per thousand gallons to fifty dollars per thousand gallons.

Mayor Clark asked Mr. Hall if he had asked the County for any help with disposing of the waste since Mr. Hall served customers outside the City Limits. Mr. Hall stated that he had talked to several people but was always referred to another person. He stated that if he worked in Rutherford County, the waste treatment facility would accept the waste with a five dollar per load fee. He stated that the fees needed to be set on a per load basis.

The discussion continued. Councilman Cross asked Mr. Hall if his business was in immediate need. Mr. Hall stated that if he had not found an alternative solution to disposing of the septage by January 1, 1991, he would be out of business. Mayor Clark stated that Council was not ready for a decision on the matter. He stated that he would like for the Utility Committee, Mr. Hunnicutt and the City Manager to look into the situation and bring a recommendation back to Council.

MOTHERS AGAINST DRUNK DRIVING: Mrs. Nedra Greenlee appeared before Council concerning the fourth annual "Drive For Life Campaign" which is held during the Labor Day weekend. Mrs. Greenlee stated that the goal of the campaign was to keep alcohol related accidents to a minimum. She stated that Labor Day weekend had the highest number of alcohol related accidents.

She stated that she would like to have the endorsement of Council for the following proclamation and on Saturday, September 1, 1990 ask that persons drive with their headlights on in honor or memory of persons who were involved or lost their lives in alcohol related accidents.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to issue the following proclamation.

PROCLAMATION
DRIVE FOR LIFE DAY
SATURDAY, SEPTEMBER 1, 1990

In support of the McDowell County Chapter of MADD (Mothers Against Drunk Driving), let it be known to the citizens of the City of Marion, North Carolina, that I, A. Everette Clark, Mayor, hereby proclaim Saturday, September 1, 1990 as:

DRIVE FOR LIFE DAY

in Marion, North Carolina and that I further solemnly request that its citizens

pledge to be responsible by driving sober, and encouraging others to do the same on Saturday, September 1 of Labor Day weekend and throughout the year, and to turn on their headlights when driving on that day in remembrance of the victims killed and injured in alcohol-related crashes.

August 21, 1990

A. Everette Clark, Mayor

RESOLUTION - COUNTY BOARD OF ELECTIONS - REQUEST TO CONDUCT CITY ELECTIONS: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to adopt the following resolution:

RESOLUTION

WHEREAS, the City of Marion has been conducting its own Municipal Elections under the non-partisan Plurality Method; and

WHEREAS, the City of Marion is required to have a three member Municipal Board of Elections and other trained officials to conduct Municipal Elections; and

WHEREAS, the City of Marion is maintaining Voter Registration Books; and

WHEREAS, the McDowell County Voter Registration Books are considered the Official Records; and

WHEREAS, the City of Marion generally has elections every other year in odd numbered years; and

WHEREAS, Federal, State and County Elections are generally held in even numbered years; and

WHEREAS, the McDowell County Board of Elections has a permanent office, voter registration personnel and full time employees trained to conduct elections; and
WHEREAS, County Boards of Elections are authorized to conduct Municipal Elections.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Marion, North Carolina as follows:

Section 1. That the City Council respectfully requests that the McDowell County Board of Elections begin conducting Municipal Elections for the City of Marion effective with the 1991 Municipal Elections.

Section 2. That City employees will work with County Election personnel in the transfer of registration records maintained by the City.

Section 3. That the City of Marion will reimburse the McDowell County Board of Elections for all costs involved in conducting Municipal Elections for the City of Marion.

Section 4. That the City of Marion will provide facilities for City Elections and personnel to assist in setting up for the Elections.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

REQUEST - BANNER FOR 4-H WEEK: The City Manager presented a request from Ms. Donna Hobbs for a banner to be placed on Main Street during the week of October 1 - 8, 1990.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to approve the request.

REPORTS:

1. **REQUEST - MACA:** The City Manager stated that MACA had requested that the City use the bucket truck to move their sign from the location on Brown Drive to Main Street. A discussion followed. Council had no objections to using the truck to move the sign as long as MACA provided the necessary hardware.

2. **COUNCILMAN LITTLE - COMMENTS:** Councilman Little stated that he would like to recommend that the brick sidewalk only be placed on the north side of Main

Street. A discussion followed. Council agreed to install the brick sidewalk only on the north side of Main Street.

3. COUNCILMAN AYERS - DRAINAGE PROBLEM - ETTA PACKAGING: Councilman Ayers asked if the City could put in the drainage system for Etta Packaging (reference Minutes of August 7, 1990). A discussion followed. Council agreed to install the pipe as requested by the Department of Transportation for Etta Packaging to the drain box.

4. SIGNING FOR BY-PASS: The City Manager asked if there was any preference as to the way the By-Pass was to be signed. It was the general consensus of Council to sign the By-Pass as 221/226 By-Pass and 221/226 Business.

5. CITY MANAGER - VACATION: The City Manager stated that he would like to have his vacation during the week of September 3. He stated that a meeting was to be held on September 4. Council agreed to cancel the September 4 meeting.

6. UTILITY COMMITTEE MEETING: The city Manager stated that a request had been made for a meeting of the Utility Committee, representatives from Galey & Lord and representatives from NRCD in Raleigh. The City Manager stated that they had requested that the meeting be held in Asheville. Council agreed that the meeting should be held in Marion and the meeting was set for September 10, 1990 at 10:00 A.M.

7. REPORT - PUBLIC WORKS DIRECTOR: The Public Works Director stated that he would like to report on the status of the following projects: 1. The fence on Morgan Street had been installed; 2. The water crew was beginning work on Dogwood Lane and 3. He had not been able to contact Mr. Carroll concerning the problems with the basketball court. Council directed the City Manager to send a letter to Mr. Carroll.

8. CITY MANAGER - COMMENTS: The City Manger stated that he would like to thank Mrs. LuAnn Ellis and Mr. Robert Parker for their work in getting the tax notices prepared. He stated that the notices should be mailed this week and would be out in time to take advantage of the discount.

9. COMMENTS - PURCHASES: The City Manager stated that he had instructed the purchasing agent to purchase gas and pipe due to the situation in the Middle East. He stated that they had received the goods before the prices went up. He stated that he had sent a memorandum to the department heads to limit purchases and that all purchases over $500.00 must be approved by the City Manager.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

September 18, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, September 18, 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; Freddie Killough, Director, Downtown Business Association; Woody Killough, President, Downtown Business Association; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. Albert Buckner, Marion Cab; Mr. Earl McEntire, Thompson,

Gordon & Shook; and Mr. Leonard Fletcher, Thompson, Gordon & Shook.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the August 21, 1990 meeting and the July 11, 1990 Joint Meeting.

MACA - REQUEST TO HANG BANNER: The City Manager presented a request from MACA to hang a banner across Main Street from September 20 through October 7 advertising for their production of PIRATES OF PENZANCE.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council authorized City forces to hang a banner for MACA advertising for PIRATES OF PENZANCE from September 20 through October 7.

CHAMBER OF COMMERCE - REQUEST TO HANG BANNER: The City Manager presented a request to hang a banner across Main Street from September 20 through October 17 for the Mountain Glory Festival.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to authorize City forces to hang a banner for the Chamber of Commerce from September 20 for the Mountain Glory Festival.

MR. W.W. HOWLE - REQUEST FOR TAX REFUND: The City Manager presented a memorandum to Council from Mrs. LuAnn Ellis, Deputy Tax Collector requesting that the City refund Mr. W.W. Howle $72.98. The memorandum stated that the County had reduced the assessment of his property located at 504 Woodland Drive which resulted in an overpayment for last year's taxes.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to refund Mr. W.W. Howle $72.98 for a reduced assessment of his property located at 504 Woodland Drive.

MR. RALPH SUTTLES - REQUEST FOR TAX REFUND: The City Manager presented a memorandum to Council from Mrs. LuAnn Ellis, Deputy Tax Collector requesting that the City refund Mr. Ralph Suttles $48.03 for overpayment of his 1990 taxes. The memorandum stated that there was a clerical error in the valuation of Mr. Suttles' property by the County.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to refund Mr. Ralph Suttles $48.03 for overpayment of his 1990 taxes due to a clerical error by the County.

TILSON SANITATION - REQUEST TO PICK UP KENTUCKY FRIED CHICKEN: The City Manager presented a letter from Tilson Sanitation requesting that he be allowed to provide two pickups per week for an eight yard container to Kentucky Fried Chicken as per the annexation area agreement for the Five-Lane Area.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to approve the request.

MR. ALBERT BUCKNER - MARION CAB COMPANY - REQUEST TO INCREASE TAXI FARES: Mr. Albert Buckner appeared before Council and requested that due to the increase in gas prices, he would like to request that taxi fares be increased. He stated that he would like to propose an increase of fifty cents for the first mile and twenty cents for each additional mile. Mr. Buckner stated that the charge for the first mile would be increased to $2.50 and the charge for each additional mile would be $1.50.

Councilman Little asked if representatives from the other cab company had been asked to come to the meeting. Mr. Buckner stated that he had gone by their business personally and invited them to come to the meeting.

Police Chief Gilsdorf stated that for clarification purposes, he would like to state that the operators may charge the fees they wished to, however, the amount set by Council was the maximum amount that could be charged.

Mr. Buckner stated that he would like the new rates to be effective Monday, September 24, 1990.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the rate increase for taxi fares as requested to be effective Monday, September 24, 1990.

THOMPSON, GORDON & SHOOK - CONTRACT FOR REPLACEMENT OF CLAREMONT AVENUE BRIDGE: Mr. Earl McEntire of Thompson, Gordon & Shook appeared before Council concerning the contract to replace the Claremont Avenue Bridge.

Mr. McEntire stated that the figures contained in the engineering agreement were preliminary figures and were for the "top of the line" bridge replacement. He stated that the firm would look at other options once the engineering process began.

The City Manager asked if the Federal Government would fund the eighty percent if a structure similar to one in another location in town was put in this area. He was advised that they would pay their percentage if the option was approved.

Mr. Fletcher stated that three proposals would be presented to the Federal Government for their approval. He stated that they had estimated the project high so they would not have to ask for additional funds if the project ran over. Mr. McEntire stated that the project would be estimated and designed according to Department of Transportation standards.

Councilman Ayers stated that he was concerned about the bridge. He stated that the water levels could be as high as ten to fifteen feet deep during a hard rain. He stated that during times when there was no rain, a person could step over the creek.

Mr. Fletcher stated that when the engineering work was being done they would look at the area, look at the history of the area and interview property owners in the area before the final proposal was submitted.

The discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to authorize the Mayor and City Manager to execute any and all documents necessary to proceed with the engineering study by Thompson, Gordon & Shook.

MAIN STREET - SIDEWALK PROJECT: The City Manager stated that the minutes of the August 17, 1990 meeting reflected that Council had agreed not to install a sidewalk on the south side of Main Street from Mr. Little's Office north to Fort Street. He stated that since that time, it had been agreed by Council to complete the sidewalk project to Fort Street as originally planned. Work beyond that point would not be done unless another contract with the Department of Transportation had been signed.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to let the minutes reflect the change.

SEPTIC TANK WASTE - REPORT FROM UTILITY COMMITTEE: The City Manager presented a proposed policy to allow Mr. Carl Hall to deposit domestic wastewater into the City sewer system.

A short discussion followed. It was agreed by Council that the permit should be nontransferable to Mr. Hall and that similar requests should be treated on an individual basis.

Councilman Stronach stated that the Utility Committee would recommend that the policy be approved. He stated that if the security bond could not be obtained by Mr. Hall to remove that section from the policy.

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

CITY POLICY
REGARDING ACCEPTANCE OF SEPTIC TANK WASTEWATER

It shall be the policy of the City of Marion to issue nontransferable interim permits, on an individual basis, to allow the deposit of domestic septic tank wastewater to the City sewerage system, from businesses located in McDowell County engaged in pumping out and disposing of septic tank wastewater, under the following conditions:

a. That the City be provided with the name, address and telephone number of the persons where the wastewater is pumped from the septic tank.

b. That no grease or industrial waste be deposited into the City sewerage system.

c. That the wastewater be deposited at such location as determined by the Chief Wastewater Treatment Plant Operator.

d. That the Chief Wastewater Treatment Plant Operator or his designee be present when any wastewater is deposited into the City sewerage system.

e. That all wastewater deposited must be from properties located in McDowell County.

f. That the City of Marion shall be paid fifty ($50.00) for each truck load of wastewater, not to exceed 1500 gallons, deposited into the sewer system.

g. That permitees provide a bond in the amount of twenty-five thousand dollars ($25,000) to protect the City from any problems which might occur as a result

of the wastewater being discharged to the City sewerage system.

h. That the interim permit may be changed or terminated by the city of Marion at any time.

CITY OF MARION SEWER SYSTEM - PROPERTIES AT LOWER ELEVATIONS THAN AVAILABLE SEWER LINES: The City Manager stated that there were several lots within the City Limits which were below the street level. He stated that this caused problems when putting in sewer lines because the wastewater could not flow by gravity to a sewer line directly serving that property unless the line was re-routed.

A discussion followed.

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

CITY POLICY
REGARDING SEWER SERVICE FOR PROPERTIES AT LOWER ELEVATIONS THAN AVAILABLE SEWER-LINES

Due to varying lot elevations within the City Limits and the cost to provide sewer service to every lot by gravity, it shall be the policy of the City of Marion to provide the following options for sewer service for those properties which are not served by a gravity sewer-line.

1. The owner of any lot within the City Limits, which lot is not served by a gravity line, may install or have installed a septic tank, if allowed by the McDowell County Health Department. In such cases, the owner would pay the cost of installation and not be required to pay the City a charge for sewer service.

2. The owner may install or have installed a sewerage pumping system to pump the wastewater to a City sewer-line. the owner would be required to have such a system installed at the owner's expense, however the City would waive the connection fee and system development charge. The owner or occupant would be required to pay the same sewer service charges as other customers.

3. If any septic tank fails or if the County Health Department will not authorize the installation or repair of a septic thank, where a gravity sewer line is not available, the owner will be required to have installed a sewerage pumping system under conditions stated in 2 above.

ANNUAL AUCTION - REQUEST TO AUTHORIZE: The City Manager stated that he had received the information from Mr. Gilbert Hollifield concerning the annual auction of surplus equipment and materials for the City. He stated that there had been an increase in the fee and an additional one hundred dollar advertising fee in the contract for this year.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to authorize the City Manager to proceed with the annual auction.

RECREATION COMMISSION - COMMENTS: The City Manager asked if Council would like to discuss the proposals for the reconstruction of a recreation facility.

Councilman Stronach stated that he and the members of Council he had spoken with agreed that the remaining portion of the existing structure be torn down and a gym and administration building which would be adequate for the facility, including showers and concession stands be constructed at the present location. He stated that the site dealing with the Corpening foundation could be wonderful in time, however a facility was needed at the present location.

Mayor Clark stated that he fully agreed with Councilman Stronach's comments.

Councilman Cross stated that he had heard discussions concerning a recreation complex on one site was a possible option.

Mayor Clark stated that from a taxpayer's standpoint, he felt that the money should be used within the individual communities rather than one central location.

Councilman Tyler stated that he felt that there was a need for individual gyms and facilities in the communities.

Councilman Cross asked who would make the final decision. He was advised that the three governing boards would make the decision as to what type of building to construct.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to go on record as supporting the removal of the recently burned Recreational Building on Academy Street and the replacement of the facilities, on the same site, with construction of a gym, housing a basketball court with bleachers, any necessary offices, showers for the pool and gym and concession

stands for both areas. In addition, it was agreed that any funds remaining after the insurance settlement and construction of a replacement facility be used to support construction of a central recreational complex or as determined by the agreement of the governmental bodies.

REPORTS:

1. **COUNCILMAN LITTLE - COMMENTS:** Councilman Little asked if the turn arrows on Main Street for the left turn onto State Street could be painted farther up the street, at Johnson's Bookstore so that persons getting in that lane would realize that it was a turn lane only. He stated that he had received several complaints by persons almost being hit by another vehicle when they realized they were in the wrong lane.

2. **COUNCILMAN AYERS - COMMENTS:** Councilman Ayers asked if the traffic lights in the downtown area could be switched to flashing caution lights after midnight and be returned to regular traffic lights early in the morning. The Police Chief stated that there had been a study done concerning this and it had been determined that there was too much traffic during these hours for flashing lights.

3. **BY-PASS - OPENING DATE:** Mayor Clark asked if a letter could be written to Mr. Gene Edmonds of the Department of Transportation to find out the date of opening of the By-Pass and request that it be opened, if only partially, prior to the Mountain Glory Festival on Saturday, October 13, 1990. Council was in agreement.

4. **REQUEST - MOUNTAIN GLORY FESTIVAL - SIDEWALK SALE:** Ms. Freddie Killough stated that she would like to request that the merchants in the downtown area be allowed to conduct a sidewalk sale during the Main Street Week/Mountain Glory Festival. She stated that the sale would be held on Thursday and Friday, October 11 and 12. She also stated that she would like permission to close Main Street from Fort to Henderson Streets on Saturday, October 13, 1990.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to grant the requests.

5. **REPORT - BASKETBALL COURT:** The City Manager stated that he had been in contact with Mr. Burdette Carroll concerning the basketball court. The company who did the work originally is now out of business. He stated that City crews were going to try to correct the problem.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 2, 1990

The City Council for th City of Marion met in Regular Session on Tuesday night, October 2, 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, John Cross and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Freddie Killough, Downtown Development Director; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. Carl Hall, Hall's Septic Tank Service; Ms. Debbie Laughridge, Hall's Septic Tank Service; and Ms. Susan Davis, Hall's Septic Tank Service.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman

Tyler, Council voted unanimously to accept the minutes of the September 18, 1990 meeting.

MS. BARBARA HODDE - REQUEST - STREAMERS - MOUNTAIN GLORY FESTIVAL: The City Manager presented a request from Ms. Barbara Hodde to place streamers on the light poles on Main Street during the Mountain Glory Festival.

The City Manager stated that Ms. Hodde had talked with Duke Power officials who had suggested that three foot streamers be used rather than longer ones so they could not be pulled by persons walking by and possibly cause damage to the fiberglass poles.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to allow the placement of three foot streamers on the light poles on Main Street during the Mountain Glory Festival.

MR. RODNEY SUTTON - REQUEST TO USE COMMUNITY BUILDING: The City Manager presented a request to Council from Mr. Rodney Sutton, Visiting Artist, to use the basement of the Community Building for a dance after the Mountain Glory Festival. The letter stated that donations would be collected to cover the expenses of the band and rent of the building.

The request stated that Mr. Sutton would like to continue the event every second Saturday. The City Manager stated that he needed to know if Council wished to charge a fee for the use of the basement. A short discussion followed. It was suggested that the Community Building Committee review the request.

Upon a motion by Councilman [redacted] voted unanimously to allow Mr. Sutton to use the building on October 13, 1990 at no charge.

MR. CARL HALL - HALL'S SEPTIC TANK SERVICE: Mr. Carl Hall of Hall's Septic Tank Service appeared before Council concerning the agreement to discharge domestic waste to the City sewer system. (Reference Minutes of September 17, 1990).

The City Manager stated that Mr. Marshall Dark of McDowell Insurance had contacted him concerning a requirement of the agreement that Mr. Hall secure a bond which would protect the City from liability in the event [redacted] or to persons from the wastewater discharged into the system by Mr. Hall. Mr. Dark had advised that such a bond was not available.

Councilman Little made a motion to delete the section concerning a security bond by Mr. Hall from the agreement. The motion was seconded by Councilman Str[redacted]

Mr. Hall stated that he was concerned with the amount of the fee the City had proposed to charge him per load of wastewater discharged to the City system. Mr. Hall stated that the City proposed to charge fifty dollars per load, however, he only charged sixty dollars to pump a system. He stated that he would have to double his charge. He stated that he would rather tell the persons to call someone in Burke County and go out of the business completely. He stated that he would have to have a ten dollar increase for gasoline and that his costs would decrease because he would have to maintain the leased land to dispose of grease.

Mr. Hall stated that the surrounding counties that allowed persons to discharge into their system charged as follows: Rutherford County - $10.00; Asheville - $15.00; Charlotte -no charge; Hendersonville - $15.00; and Shelby - land application.

The City Manager stated that the charge had been determined by conversations with the engineer and waste treatment plant operator. He stated that the engineer had recommended that a facility be constructed on the site of the plant to [redacted] the waste into due to the higher concentration of the waste that would normally be in the received from the sewer system. He stated that if the waste was discharged into a manhole at another location, an employee would have to go with Mr. Hall to the location and may be required by the State to get samples for testing.

Mr. Hall stated that the other locations that accepted waste took it straight into the plants. He stated that he would rather discharge the waste into a manhole located at the City Shop on Rutherford Road. He stated that [redacted] there at all times.

Mayor Clark stated that he would like to refer the matter to the Utilities Committee.

Mr. Hall stated that he had to submit a written letter to the State by October 18 telling them what method of disposing of the waste he would be using.

Councilman Stronach stated that he had been told that Mr. Hall would be able to use land application after the January 1, 1991 deadline. Mr. Hall stated that he could use the land application method for up to sixty three thou[redacted]

septage, if he treated the site with lime. He stated that he would like to reserve that for holidays and Saturdays when there would not be personnel at the City to allow him to discharge to the system.

Councilman Ayers asked Mr. Hall what a maximum amount he could charge his customers would be. Mr. Hall advised that a maximum would be eighty-five dollars per load. He stated that the maximum he could pay the city per load to discharge would be fifteen to twenty dollars per load.

Councilman Stronach stated that the City was not in a money making business, however, the City must charge for their expenses. He stated that when the charge was determined, it would be for an amount that it cost the City. He stated that if other cities could charge a lesser fee, they should be able to as well.

The City Manager stated that the fee had not been set to "gouge" Mr. Hall's business and that an alternate disposal site had not been discussed.

Councilman Little stated that he would like to withdraw his motion earlier to delete the section concerning a security bond so that all changes in the policy could be made at the same time. Councilman Stronach withdrew his second.

It was agreed that the City Manager would prepare a new policy for consideration at the next meeting.

MARION BY-PASS - SIGNING: The City Manager stated that officials from the Department of Transportation had advised that signs for the By-Pass would show NC 226 for the By-Pass only and there would be signs for US 221 By-Pass and US 221 Business. He stated that in addition, there would be a sign to show Henderson Street and the downtown area.

Councilman Ayers asked when the By-Pass would open. He was advised that it would officially open on October 16.

PRIVILEGE LICENSE - ORDINANCE AMENDMENT - 1990 LEGISLATIVE CHANGES: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following ordinance amendment:

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 Section 25., Schedule of License Taxes - Restaurants, adopted May 8, 1990, be deleted in its entirety and replaced with the following:

Every person, firm or corporation engaged in the business of operating a restaurant, cafe, cafeteria, hotel with dining service on the European plan, drug store, or other place where prepared food is sold, shall pay an annual license tax as follows. The only exception to this section shall apply to industrial plants maintaining a cafeteria solely for the convenience of its employees. This section shall, however, apply to hospitals, industrial plants, or other similar cafeterias which provide meals for patients, employees and visitors for a charge.

Restaurants with a seating capacity of less than five persons: $25.00 per year.

Restaurants with a seating capacity of greater than five persons: $42.50 per year.

Sales of sandwiches made only of crackers, or cookies with food filling are not subject to this tax. Sale of any commodities through a vending machine are also exempt from this tax.

Section 2. All ordinances in conflict with this ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect on July 1, 1991.

ADOPTED this the 2nd day of October, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

ROCKY PASS NURSING HOME - WATER LINE EXTENSION - CITY/COUNTY AGREEMENT: The City Manager stated that the County had approved the following agreement contingent upon receiving funds ($30,000) from Mr. Seagle for the project.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the following agreement, contingent upon receipt of funds from Mr. Seagle for the project.

INTERLOCAL COOPERATION AGREEMENT

THIS AGREEMENT, dated the 2nd day of October, 1990 is between The City of Marion (hereafter "The City") and McDowell County (hereafter "the County").

WITNESS

Governing bodies of the City and the County recognize the need for extension of water service south along U.S. Highway 226, and the benefit of such a line to the County by providing adequate drinking water to residences and service to commercial properties that exist in the area.

The cost of extending water service south along U.S. Highway 226 is estimated to be $151,200.00.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and pursuant to the authority granted in N.C.G.S. 160A-461, et. seq., the County and City agree as follows:

1. The City has agreed to install a water line using City personnel and City equipment at the location described on Exhibit A which is attached to and made a part of this Agreement. The installation, however, contains two exceptions: first, the City shall not be required to install the line under any river nor attache the line to any bridge, and second, the City shall not be required to remove any rock if such removal is necessary for the installation of the line.

2. Upon completion of the installation, the water line shall be and remain the property of the city and thereafter it shall be the City's sole responsibility, financially and otherwise, to maintain and repair the line as needed.

3. The cost of installing the water line will be shared as follows:

a. The County shall pay to the City, the sum of $30,000.00 prior to the installation of the water line.

b. The City shall complete all documents necessary to obtain from the State of North Carolina a Water Supply Revolving Loan/Grant in the amount of $75,150.00. The repayment terms and conditions for the loan are set forth in Exhibit B attached, which are made a part of and incorporated in this Agreement as if fully set out in this paragraph. PROVIDED, HOWEVER, the County agrees that it will repay to the City the full amount of the grant under the same loan terms and agreements as set out in Exhibit B herein and to that end shall execute in favor of the City a promissory Note in form identical to that attached as Exhibit C. Any funds left over after the project is completed shall be applied by the City to the loan balance.

4. The City shall administer all funds in connection with the project.

5. The City shall secure engineering services, acquire all necessary rights-of-ways, secure all necessary subcontractors, assume responsibility for all necessary reporting required by the State of North Carolina, and assure compliance with all rules and regulations contained in Exhibit B attached hereto.

6. This agreement shall exist and continue as long as the Emergency Revolving Loan Account remains unpaid, and shall terminate when the loan is paid in full.

7. This Agreement may be amended in writing by the governing bodies, respectively, of the County and City.

IN WITNESS WHEREOF, the City and the County have each caused this instrument to be executed by duly authorized officers, this the day and year first above written.

CITY OF MARION

A. Everette Clark (Seal)
Mayor A. Everette Clark

ATTEST:

Clerk to the Board

COUNTY OF McDOWELL

(Seal)
Chairman of the Board of Commissioners Jack A. Wood

ATTEST:

Clerk to the Board

The original copy of the document will be filed in the safe under Legal Document Number 567.

ROCKY PASS NURSING HOME - WATER LINE EXTENSION - RESOLUTION ACCEPTING FUNDS: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

RESOLUTION
AUTHORIZING ACCEPTANCE OF STATE LOAN
(PROJECT DEH-0151)

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

Section 1. That City Manager, J. Earl Daniels is hereby authorized, on behalf of the City of Marion, to accept a State Loan in the amount of Seventy-five thousand, on hundred fifty dollars ($75,150) under Project Number DEH-0151 from the Department of Environment, Health and Natural Resources, Division of Environmental Health for the construction of a twelve inch (12") diameter water line for a distance of 1.2 miles to extend water service to properties beyond the City Limits, including Rocky Pass Rest Home and to make the assurances contained in said loan and to execute any and all documents necessary regarding said project.

Adopted this the 2nd day of October, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

US HWY 70 - RE-ROUTING TRAFFIC THROUGH CITY: The City Manager stated that he and the Street Committee had met earlier with officials from the Department of Transportation concerning re-routing traffic through the City for Hwy 70.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to request that Hwy 70 be re-routed to use Logan Street, Court Street and North Main Street (5-Lane) from Logan Street north.

ISOTHERMAL PLANNING & DEVELOPMENT COMMISSION - PLANNING GRANT FUNDS - RESOLUTION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

RESOLUTION
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, the 1990 General Assembly recognized this need through the appropriation of $960,300 to help the Lead Regional Organizations assist local governments with grant applications, economic 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 $53,350 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 revolving solid waste issues, establish and staff an SBA 504 Certified Development Corporation, and other activities as request 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 funds, $1,004.97, to the Isothermal Planning & Development Commission at the earliest possible time in accordance with the provisions of Chapter 1066, Senate Bill 1426, Section 42 of the 1990 Sessions Laws.

ADOPTED this the 2nd day of October, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manger/Clerk

MAINTENANCE CONTRACT - CLEANING OF COMMUNITY BUILDING: The City Manager stated that at the present time, care of the Community Building was under contract, however, there were several things that needed to be done that he was not sure that the person under contract was physically able to complete.

The City Manager stated that persons who rented the building were supposed to clean the building, but they were not responsible for cleaning windows, dusting, etc.

Councilman Stronach asked if a City employee could clean the building rather than contracting the work.

Councilman Little stated that he would like the Community building Committee to look at the matter. Members of Council agreed to refer the matter to the Community Building Committee.

LETTER OF SUPPORT - PROPOSED CLOSE SECURITY PRISON: The City Manager stated that a letter supporting the location of a close security prison in McDowell County needed to be sent to the Department of Corrections in Raleigh. He stated that he would like Council's endorsement of the letter.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to endorse the proposed close security prison being located in McDowell County.

COMMENTS - COUNCILMAN AYERS: Councilman Ayers asked if there had been any progress with correcting the visibility problem at Montevista Avenue. He was advised that DOT Officials are negotiating with the property owners. He was also advised that DOT had stated that they would widen Logan Street if the City would remove the gas pump isle at the Century 21 Building at the intersection of Logan and Main Street.

The City Manager stated that he had been advised that if the tanks were empty, they could be filled with sand. If the tanks had liquid in them, they would have to be pumped out and cleaned before filling with sand. He stated wells may also have to be installed in the area to monitor the soil.

Council agreed that the City should take care of the problem with the pump isle so Logan Street could be widened.

MACA AD HOC COMMITTEE - APPOINT ONE MEMBER: The City Manager stated that a representative from the City needed to be appointed to the MACA Ad-Hoc Committee. He stated that the committee would be a study group to decide the future location of MACA due to recent discussions.

Ms. Freddie Killough stated that last week, she had been invited to a meeting with the Corpening Foundation Board, the MACA board, Mr. Bob Hunter, representatives from the Recreation Commission and the County Manager. She stated that the purpose of the meeting was to give MACA an opportunity to join with the Recreation

Commission for a multi-building complex to be located near the McDowell Hospital. She stated that the Corpening Foundation would provide a building space for MACA at no cost to them.

The City Manager stated that the Corpening Foundation funds would not be available until the death of Mrs. Corpening. He stated that since the burning of the facility on Academy Street, a question had risen concerning whether the building should be reconstructed or the insurance money be used to assist in the complex proposed by the Corpening Foundation.

The City Manager stated that he had spoken with the County Manager and had been advised that the only discussions involved a master plan for the complex.

Mayor Clark read a letter from County Manager Chuck Abernathy stating that the County had approved a proposal for services with Rogers/Dameron architectural firm as to what type buildings should be placed on the Corpening site.

Councilman Stronach stated that he would like to call a meeting of the three governing boards to meet as soon as possible to discuss the replacement of the Academy Street facility.

Councilman Ayers stated that the three governing bodies should decide what to do with the insurance money from the burned building. He stated that the City's views were different from the views of the Corpening Foundation.

The City Manager was directed to set up a meeting of the three governing boards.

ALTERNATE DELEGATE - NORTH CAROLINA LEAGUE OF MUNICIPALITIES CONVENTION: The City Manager stated that Mayor Clark was the delegate for the League of Municipalities Convention, however, an alternate delegate was needed.

Council agreed to appoint Councilman Cross as alternate delegate for the League of Municipalities Convention.

COMMENTS - COUNCILMAN AYERS: Councilman Ayers stated that he had received several calls as follows: 1. Problems with and overgrown tree on Clairmont Avenue; 2. Glenview Street - a tree had grown over some of the street signs and they were not visible; 3. A request from a person in the annexation area had stated that he felt that the City should come to their homes for the right-of-ways rather than them having to come to City Hall. He also stated that stakes had been left in one resident's yard where a line had been relocated and the resident was afraid that they may put the line there anyway.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 30, 1990

The Marion City Council met on Tuesday, October 30, 1990. The Regular Scheduled meeting of October 16, 1990 was rescheduled to this date due to a majority of Board Members being out of town.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Glen Sherlin, Public Works Director; Freddie Killough, Downtown Business Association; Woody Killough, Downtown Business Association; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. Love L. Moore, 532 Ellis Street; and Mr. and Mrs. Gene Smith, Hwy 226.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the October 2, 1990 meeting.

MR. LOVE L. MOORE - ELLIS STREET - PROBLEMS WITH MUD SLIDE: Mr. Love Moore appeared before Council concerning problems with mud sliding from a lot he owns Ellis Street to West Court Street.

The City Manager stated that the mud slide occurred during the heavy rains on October 12. He stated that City forces had to go to West Court Street twice with a backhoe to remove the mud from the streets. He stated that according to City Ordinances, Mr. Moore would be responsible for the cost to clean the lot. He stated that at this time, the bill was approximately $298.00

Mr. Moore stated that he had recently moved into the City and was not aware he had been furnished with a copy of the ordinances inside the City Limits. He stated that if he had know about the screening required for this type of work, he would have had the contractor comply.

Mr. Moore was advised that the contractor should have known about the ordinance. The Police Chief stated that the problem with the mud was very dangerous and that if there had been a car accident resulting from the large amount of mud in the street, Mr. Moore could have been held liable for damages.

Mr. Moore stated that Stockton Grading had started the work for him. He stated that he called him to come over to stop the mud, however, he had been advised that there was nothing he could do. He asked if Mr. Stockton could be held liable for the cost of cleaning by the City.

Mayor Clark stated that the amount of rainfall was highly unusual and the timing of the grading work was unfortunate, however, he hoped that Mr. Moore understood the position of the City in the matter.

Councilman Stronach stated that he would like a copy of the ordinance relating to such items sent to the contractors doing work in this area.

Mr. Moore was advised that the contractor may have responsibility in the matter, however, the City had to charge the property owner.

MR. CARL HALL - HALL'S SEPTIC TANK SERVICE - POLICY TO ACCEPT SEPTIC TANK WASTEWATER: The City Manager presented the following policy with corrections as requested by Council.

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

CITY POLICY
REGARDING ACCEPTANCE OF SEPTIC TANK WASTEWATER

It shall be the policy of the City of Marion to issue nontransferable interim permits, on an individual basis, to allow the deposit of domestic septic tank wastewater to the City sewerage system, from businesses located in McDowell County engaged in pumping out and disposing of septic tank wastewater, under the following conditions:

a. That the City be provided with the address where the wastewater is pumped form the septic tank.

b. That no grease or industrial waste be deposited into the City sewerage system.

c. That the wastewater be deposited at such location as determined by the Chief Wastewater Treatment Plant Operator.

d. That the Chief Wastewater Treatment Plant Operator or his designee be present when any wastewater is deposited into the City sewerage system.

e. That all wastewater deposited must be from properties located in McDowell County.

f. That the City of Marion shall be paid twenty ($20.00) for each truck load of wastewater, not to exceed 1,500 gallons, deposited into the sewer system.

g. That the interim permit may be changed or terminated by the City of Marion at any time.

Adopted this the 30th day of October, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

AGREEMENT - DOT - CLAREMONT AVENUE BRIDGE REPLACEMENT: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following agreement with the Department of Transportation concerning the Claremont Avenue Bridge. A copy of the Agreement can be found in the safe located under Legal Document Number 569.

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

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

WHEREAS, the City of Marion proposes to make certain improvements under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said improvements to consist of the replacement of the concrete, masonry, and steel structure on Claremont Avenue over Young's Fork under Project 8.2870201 (B-1471), McDowell County; and

WHEREAS, the City of Marion proposes to enter into an agreement with the North Carolina Department of Transportation for said improvements wherein the City of Marion agrees to prepare the planning report, design the project, make all necessary utility adjustments, acquire the right-of-way, and further agrees to construct the improvements; and,

WHEREAS, under the proposed agreement, the City of Marion shall participate in the total allowable project costs to the extent of 20 percent, with the Department of Transportation to reimburse the City of Marion for 80 percent of the total allowable project costs as set out in the agreement.

NOW, THEREFORE, BE IT RESOLVED that the agreement for the hereinabove referenced improvements, under Project 8.2870201, McDowell County, is hereby formally approved by the City Council of the City of Marion and the Mayor and City Clerk of this Municipality are hereby empowered to sign and execute the required agreement between the City of Marion and the Department of Transportation.

This Resolution was passed and adopted the 30th day of October, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

DOWNTOWN BUSINESS ASSOCIATION - REQUEST FOR HALLOWEEN PARADE: Mrs. Freddie Killough, Downtown Business Association appeared before Council and requested permission to have a Halloween Parade on Wednesday, October 31, 1990 at 4:00 P.M. The parade would be on Main Street from Court Street to Henderson Street. The approximate time would be thirty to forty-five minutes.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to allow a Halloween Parade as requested.

DOWNTOWN BUSINESS ASSOCIATION - REQUEST TO WAIVE FEE FOR COMMUNITY BUILDING: Mrs. Killough stated that the Downtown Business Association and the Clean County System would be co-sponsoring the annual "Trash Bash" party for young people in the county at the Community Building to help promote a safe alternative to Trick or Treating. She stated that she would like to request that the fee for the building be waived.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to waive the fee for the Community Building for the annual "Trash Bash" party.

ROBINSON ROAD (SR 1505) - CONSIDERATION FOR TRANSFER FROM DOT: The City Manager stated that he had received a letter from DOT advising that the City could take over Robinson Road for maintenance.

Mayor Clark stated that he had a problem with accepting the street because a portion of the road was outside the City Limits. He stated that he did not think that City money should be used to maintain a road outside the City Limits. He stated that he would like to recommend that the matter be tabled until the remaining portion of the road is annexed.

Councilman Tyler stated that he would like to recommend that the road be taken over for maintenance. He stated that the portion of road outside the City was very small.

Councilman Tyler made a motion that the road be taken over by the City for maintenance.

Councilman Stronach stated that he had no problems with taking the road over for maintenance. He stated that the letter from Mr. Tony Moore of D.O.T. stated that all or parts of the road could be taken over for maintenance. He stated that he would second the motion to accept the road for maintenance.

Councilman Little stated that he would like to refer the matter to the Street Committee for further study.

Mayor Clark stated that he did not have a problem with maintaining the portion of the road inside the City, however, he did not want to use City funds to maintain a road outside the City Limits.

Councilman Cross stated that he would like for the Street Committee to look at the matter.

Councilman Little made a motion to table the matter until the next meeting and refer the matter to the Street Committee. The motion was seconded by Councilman Cross. The vote was as follows: Ayes: Councilman Ayers; Councilman Stronach, Councilman Little and Councilman Cross. Noes: Councilman Tyler.

RESOLUTION - ENCOURAGING CITIZENS TO VOTE FOR BOND REFERENDUM FOR PRISONS - NOVEMBER 6, 1990 ELECTION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adopt the following Resolution:

RESOLUTION

WHEREAS, the voters of North Carolina will consider approval of a $200 million prison bond referendum on the November 6, 1990 ballot; and

WHEREAS, additional prisons are badly needed to eliminate overcrowding of existing prisons; and

WHEREAS, City Officials have been advised that a 906-man medium security prison will be constructed near Marion in McDowell County if the proposed prison bond referendum is approved by the voters of North Carolina; and

WHEREAS, the proposed prison facilities would cost an estimated $24.8 million to build, would employ 353 persons and have an estimated operating budget of $11.5 million; and

WHEREAS, construction of the proposed facility would be a direct benefit to the citizens of Marion and McDowell County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion, North Carolina as follows:

Section 1. That all citizen registered to vote in the November 6, 1990 elections are encouraged to vote for approval of the $200 million prison bonds.

ADOPTED this the 30th day of October, 1990.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

Pearl Daniels

J. Earl Daniels, City Manager/Clerk

Mr. Gene Smith appeared before Council and stated that he owned property adjacent to the site of the proposed prison. He stated that everyone said that in the event of a breakout, the prisoners would not stay in the area. He stated that regardless of the fact, he did not want to be next door to the prison.
Councilman Little stated that he respected the feelings of the Smith's and he would not want to live next door to a prison either.

Mrs. Smith stated that if the prison was built in that location, a bridge would have to be built to handle the rain water. She also stated that they were both retired and were concerned where the money would come from the repay the bonds.

Councilman Little stated that if the bond issue did not pass, the State was at a critical point and the prisons would have to be built and the money would have to come from another source. He stated that the overcrowding was so bad at this time, the average time served was thirty days for each year sentenced.

The Police Chief stated that a person was arrested in Marion for stealing a car. He was convicted and sentenced to four or five years. He stated that a few months later, a person was picked up in Florida for stealing a car in Marion. He stated that it was the same person - he had served a few months of his sentence, gotten out and had stolen another car.

Mrs. Smith stated that the prison here was a "resort area" she stated that they pitched horseshoes, played softball, and lifted weights. She stated that she thought the prisoners should be sent out to work on the highways like they used to.
She stated that she knew Council had no control over what went on in the prisons, but she felt that something had to be done.

ORDINANCE - ENFORCEMENT STRATEGY - CITY OF MARION PRETREATMENT PROGRAM: The City Manager presented an Ordinance regarding an Enforcement Strategy for the pretreatment program.

Mayor Clark stated that he would like for the Utility Committee to review the policy again. He stated that he felt that in the event the ordinance was challenged, the City may have problems enforcing the ordinance.

Councilman Stronach stated that the Utility Committee had reviewed the policy and did not have any problems with it, however, they would be willing to review it again.

PROPOSED CHARGES FOR AVAILABILITY OF WATER FOR SPRINKLER SYSTEMS: The City Manager stated that at this time, there was no charge for water used for sprinkler systems. He stated that sprinkler systems required a separate line into the building and that someone could tap onto the line which was not metered and would not be billed for water used.

Councilman Stronach stated that he felt that it would be wrong to charge for water used for a sprinkler system. The City Manager stated that if the water was metered, it would be apparent if the water was used for another purpose. He stated that in the event of a fire, Council could forgive the bill.

Councilman Ayers asked if it was normal procedure to run separate lines for sprinkler systems. He was advised that it was.

Councilman Stronach recommended that the matter be tabled. Council was in agreement.

Glen Sherlin, Public Works Director stated that metering this water was very important, if only looked at from a health standpoint.

ANNUAL CHRISTMAS PARTY: The City Manager asked Council if they had any ideas concerning the annual Council Christmas Dinner. It was agreed to have the dinner on December 18 or December 4, leaving the arrangements up to the City Manager.

COUNCILMAN LITTLE - COMMENTS: Councilman Little stated that he had received quite a few calls from angry citizens about the way the trees on Main Street had been trimmed. He stated that he agreed and felt that the trees should have been left as they were.

Mayor Clark stated that he had received several calls as well.

The City Manager stated that he had given instructions to trim approximately six inches from the trees. He stated that by the time he got to Main Street, four trees had been trimmed and it was too late to stop the person trimming them.

Mr. Woody Killough stated that some of the merchants in the area were happy that the trees had been trimmed and their signs could be seen. He stated that some merchants had asked if these trees could be removed and dwarf trees planted in

their place. Council agreed to leave the trees as they were, but not to trim them so drastically in the future.

COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he had received a call from a person who lives on Spring Street. He stated that the person had almost been hit several times by motorists who did not know the street was one way. He asked if additional signs could be installed. Councilman Little suggested that arrows be painted on the street.

ROCKY PASS WATERLINE EXTENSION - PROBLEMS: The City Manager stated that he had been advised of requirements of the State for the Rocky Pass Water Line Extension. He stated that if the total project cost was in excess of $75,000, the project would have to be bid by private contractors and could not be done by City forces. He stated that the total cost for the project had been estimated at $151,200.

The City Manager stated that the City had several options as follows: 1. In the event a prison is located here, additional work will be needed and the projects could be done at the same time; 2. Bid the work out to a private contractor; 3. Forget the loan and let the County buy the materials and the City put the line in as agreed originally.

Councilman Stronach stated that the County should go back to the original plan. He stated that it was not fair to the persons needing the water to make them wait until the project for the prison was underway.

The discussion continued.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to request that the County furnish the materials for the water line extension and the City would put the lines in.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

November 6, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, November 6, 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; Bill Gilsdorf, Chief of Police; Officer Donna Edwards, Police Department; Sergeant Arthur O'Dear, Police Department; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Roger Sprinkle, Johnson, Price and Sprinkle; and [illegible] Isaacs, Johnson, Price & Sprinkle.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman

Ayers, Council voted unanimously to approve the minutes of the October 30, 1990 meeting.

INTERMEDIATE CERTIFICATE - PRESENTATION - OFFICER DONNA EDWARDS: Police Chief Gilsdorf presented an Intermediate Certificate to Officer Donna Edwards. He stated that Officer Edwards has served with the police department for approximately fifteen years and had exceeded the six hundred hours required for Intermediate Certification.

Mayor Clark and members of Council expressed their appreciation and congratulations to Officer Edwards.

1989 - 1990 AUDIT PRESENTATION - JOHNSON, PRICE & SPRINKLE: Mr. Roger Sprinkle and Mr. Jim Isaacs appeared before Council and presented the 1989 - 1990 Audit to Council.

Mr. Sprinkle stated his firm had to actually complete two separate audits on governmental units. He stated that a financial audit and a compliance audit had to be done.

Mr. Sprinkle stated that things had been found in good order. He stated that the expenditures were well within the budget, however, the income did not come in as expected. He stated that there was some concern for the next year with the water and sewer fund since a major industry had closed.

The City Manager stated that the over expenditures in the General Fund had been covered by using fund balance. He stated that the projects in the water and sewer fund would account for the over expenditures in that fund. The City Manager stated that he had held several staff meetings and all vehicles and other major expenditures had been cut from the budget at this time. He stated that he had informed the department heads that there must be major cutbacks due to the income loss by the closing ofCross Mill. The discussion continued.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to accept the 1989 - 1990 Audit as presented and authorize the City Manager to pay the fee for the audit.

ORDINANCE - ENFORCEMENT STRATEGY - CITY OF MARION PRETREATMENT PROGRAM: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
ENFORCEMENT MANAGEMENT STRATEGY FOR THE CITY OF MARION

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

Section 1. Definitions.

AO	Administrative Compliance Order
SIU	Significant Industrial User
POTW	Publicly Owned Treatment Works
RNC	Reportable Noncompliance
NPDES PERMIT	Natural Pollutant Discharge Elimination System
COMPLIANCE MEETING	Informal meeting with the SIU to discussed the resolution of reoccurring noncompliance
SHOW CAUSE MEETING	Formal meeting requiring the SIU to appear and demonstrate why the Control Authority should not take a proposed enforcement action against it.

Section 2. Introduction

This enforcement response plan outlines procedures the City of Marion will use in order to identify, document, and respond to violations of pretreatment regulations by significant industrial users (SIU's). This plan describes how the City will investigate violations, and describes the types of enforcement to be taken, identifies the officials responsible for each type of response, and reflects the City of Marion's responsibility to enforce all pretreatment requirements and standards.

The City of Marion's enforcement response plan is to ensure compliance with Federal and State regulations, and to ensure that all industries are given fair and equal treatment if enforcement of pretreatment standards and regulations are necessary.

Section 3. Enforcement Authorities Available To The City

Section 5 of the City of Marion's Sewer Use Ordinance gives the POTW the authority

to take a wide variety of enforcement actions. Each of these actions can be viewed as having a certain degree of punitiveness. The City's Enforcement Response Plan will utilize all of the enforcement tools available to the POTW in system which outlines escalating enforcement actions dependent on the nature of the violations and the cooperativeness or recalcitrance of the violator. Listed below are remedies authorized by the SUO and ordinance citation. The list is presented in order of punitiveness, least punitive first and most punitive last.

1. Notice of Violation [5.1(a)]
2. Consent Order [5.1(d)]
3. Show Cause Order/Hearing [5.1(c)]
4. Administrative Order [5.1(d)]
5. Emergency Suspensions [5.1(e)]
6. Termination of Permit [5.1(f)]
7. Criminal Penalties [5.3 (a) and (b)}

In addition to this, Section 5.2 of the SUO authorizes the director to assess civil penalties of up to $2,500 per day violation. Civil penalties are normally used along with one of the other seven activities listed above and the punitiveness of the penalty depends on the dollar amount.

Section 4. Noncompliance Determination.

The City of Marion will investigate SIU compliance by:

1. Inspections of the SIU
2. Reviewing SIU self-monitoring data
3. Reviewing compliance data collected by the POTW

The sewer use ordinance and guidance provided by the EPA and the Division of Environmental Management has been used by the City to identify these categories of noncompliance:

1. Unpermitted discharges
2. Permit noncompliance which falls into four areas: (a) limits violations
   (b) monitoring violations
   (c) reporting violations
   (d) violations of permit conditions
3. Violations of enforcement orders

(a) Unpermitted Discharges:

Unpermitted discharges can result from several activities. The SIU might fail to obtain a permit prior to discharging to the wastewater treatment plant. The SIU might discharge to a point in the collection system which is not identified in the SIU's permit. The SIU might begin to discharge a pollutant which was previously identified as absent by the industry. Also, the SIU might continue to discharge when its permit has expired.

Unpermitted discharges will normally be discovered during the inspection of an industry. The inspector will be responsible for determining the severity of the violation during his inspection. The severity will depend on whether

the unpermitted discharge poses an immediate threat to the POTW or the environment and whether the industry was unaware of the requirements or seeking to avoid the regulations.

(b) Permit Noncompliance

The 4 areas permit noncompliance falls into are discussed below:

(1) Permit Limit Noncompliance Permit: Permit limit violations are fairly straight forward and the severity depends on whether the violation is considered Reportable Noncompliance (RNC). RNC is defined in North Carolina's general pretreatment regulations. It is the Pretreatment Coordinator's responsibility to evaluate compliance with pretreatment limitations each time data is received and at the end of each semiannual reporting period.

(2) Self-Monitoring Noncompliance: Noncompliance with monitoring occurs when the SIU fails to conduct all of the self-monitoring required by its pretreatment permit. The severity of the violations depends on how much self-monitoring was actually completed. If the SIU conducted less than 80% of the sampling and analyses required in a six month period, the violation is considered significant or RNC. Each time a self-monitoring report is received from the SIU it is the responsibility of the Pretreatment Coordinator to compare the report to the permit requirements and evaluate compliance with monitoring requirements.

(3) Reporting Violations: Reporting violations occur when the SIU fails to

provide information which is required by the permit within the time period stated in the permit or when the information is incomplete or false. Reports required by the permit can include self-monitoring reports, spill prevention plans, baseline monitoring reports, ninety day compliance reports and sludge handing plans. In the case of late or incomplete reports the severity of the violation depends on the length of time the report is late. If a complete report is not submitted within 30 days of the due date, the violation is considered RNC. Knowingly submitting false information is always considered a significant violation.

It is the Pretreatment Coordinator's responsibility to track the report due dates included in the pretreatment permits and to evaluate compliance in terms of the tardiness and completeness of the submission.

(4) Violations of other Permit Conditions: The pretreatment permits issued by the City contain about 20 conditions which do not fall into the category of limits, monitoring or reporting requirements. For example, the pretreatment permit prohibits slug loads and requires the SIU to properly operate its pretreatment facility. Violations of these conditions would normally be discovered as part of an inspection or in conjunction with another enforcement action. The Pretreatment Coordinator is responsible for evaluating compliance with these requirements and the severity of the violation is determined by the Director.

Section 4. Violations of Enforcement Orders.

Violations of enforcement orders are actually very similar to pretreatment permit noncompliance in that they can be broken down into limits violations (interim limits), monitoring violations (increased monitoring required by order) and reporting violations. In addition, violations of enforcement orders would include missing milestone dates and noncompliance with final limits once the order has expired. However, all violations of enforcement orders, with the exception of interim limits violations, are considered RNC. Interim limit violations would not be considered significant if they did not meet the criteria listed in the pretreatment regulations of North Carolina and if the SIU paid the stipulated penalty assessed.

Once the SIU has been put on an enforcement order, the City's initial response to violations becomes simply a matter of notifying the SIU of the violation and collecting the stipulated penalty outlined in the order. It is the Pretreatment Coordinator's responsibility to track compliance with the order and notify the Director when penalties should be assessed. Once the Director is informed of noncompliance with an order, he will determine whether the violations are so severe as to warrant elevated enforcement. For example, an escalated enforcement action would be needed if it was clear that the SIU could no longer meet the remaining milestone dates in the existing order.

Section 5. Responses to Noncompliance.

In order to ensure that the City is taking timely and effective enforcement actions, two tools will be employed: an enforcement response guide and an enforcement flowchart. The purpose of the enforcement response guide (ERG) is to identify initial responses and time frames for each of the types of violations discussed under Noncompliance Determination. Once the enforcement action is taken, the flow chart can be used to identify the more punitive action which will be taken if the SIU failed to return to compliance as a result of the previous or initial action.

Attached to and made a part of this Ordinance, is the ERG and the flowchart. These tools will help make enforcement of violations of pretreatment regulations much easier to identify, document, and response to.

Section 6. Penalties.

The City shall charge the SIU, in addition to the amounts established in Table I. Enforcement Response Guide, any amounts assessed the City of Marion by the Federal and/or State governments for any violations caused by the SIU.

ADOPTED this the sixth day of November, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

ROBINSON ROAD (SR 1505) - CONSIDERATION FOR TRANSFER FROM THE DEPARTMENT OF TRANSPORTATION: The City Manager stated that the Street Committee had looked at the section of Robinson Road that was outside the City Limits. He stated that he had contacted personnel with the Powell Bill Section in Raleigh and had been advised that a street could not be maintained by using Powell Bill Funds if it was outside the City Limits.

The City Manager advised Council that he had written a letter to the Temple Baptist Church asking if the Church would consider petitioning the City for annexation so that the road could be maintained by the City. He stated that he had not received a response.

A short discussion followed.

Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to allow the Church time to respond to the request.

CLINCHFIELD SEWER SYSTEM IMPROVEMENTS - DISCUSSION: The City Manager advised Council that several changes in the Clinchfield sewer system had been made such as taking out lines and manholes that were not necessary. He stated that quite a bit of funds could be saved, however he had been advised by McGill Associates that regulations by the State now required contractors to pave the entire section of road where it had been torn up due to placement of lines and manholes instead of patching the road as had been specified in the contract. He stated that this regulation would take the funds that had been saved on the project due to modifications.

The City Manager stated that an alternative would be for the City to accept the streets for maintenance, allow the contractor to patch the sections torn up and repave the road next spring. He stated that he would like to talk with officials with the Department of Transportation before a final decision was made. The discussion continued.

The City Manager stated that Mr. Joel Storrow or Mr. Gary McGill had indicated that they would come to the next meeting to discuss the problem. Council agreed to ask a representative from McGill Associates to come to the next meeting.

HUNT STREET - CONSIDERATION FOR CITY MAINTENANCE: The City Manager presented a copy of a Warranty Deed for Hunt Street which had been given to the City by E. Penn Dameron and William H. B. Hamill, Trustees of Marion Manufacturing Company Liquidating Trust. He stated that they wished for the City to maintain the Street.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to accept Hunt Street for maintenance by the City and to place the street on the Powell Bill Map.

EMPLOYEE LONGEVITY CHECKS - DISCUSSION: The City Manager stated that he had provided each member of Council copies of the section in the Personnel Resolution concerning longevity checks. He stated that employees received one days pay for each year service up to one weeks pay and then one dollar for each month of service over five years. He advised Council that the checks were usually distributed the last week in November.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to authorize payment of the longevity checks as stated in the personnel policy.

REPORTS:

1. **CHRISTMAS DINNER:** The City Manager stated that the Christmas Dinner had been set for Tuesday night, December 18, 1990 at 6:30 P.M. at the Crossbow.

2. **COUNCILMAN CROSS COMMENTS:** Councilman Cross stated that he had received a request concerning no left turns on the Five-Lane from Montevista. He stated that he had not heard on the project in some time. The City Manager advised that would check with the Department of Transportation on the matter.

3. **CENTURY 21 PROPERTY - REPORT:** The City Manager advised Council that the City had received permission to fill the tanks located on the Century 21 property with sand and remove the island. He stated that he needed to contact personnel with the Department of Transportation and see if they could proceed with widening the street if this work was done.

4. **COUNCILMAN TYLER - REQUEST:** Councilman Tyler stated that he would like to see a center line painted on Fern Avenue and Montevista Avenue. The City

Manager stated that he would have to ask state workers to do the line because the City only had a hand unit. The Police Chief stated that they usually heard when a paint truck went through town and they would request they paint the lines the next time they came through.

5. PROPOSED POLICY - SEWER SERVICE: The City Manager stated that there were approximately twenty businesses on the Five-Lane that had not tapped onto the sewer system. He stated that a lot of money had been spent putting in the lines and no revenue would be coming in if the people did not tap onto the lines. He stated that he had heard that the impact charge was holding some persons back. He stated that he was looking at recommending a change in the policy to allow payments on time at eight percent interest. He stated that he was also looking into setting a deadline for persons on an existing septic tank with no problems, in annexed areas to connect onto the system within a certain period.

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 20, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, November 20, 1990 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Robert Ayers.

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

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the minutes of the November 6, 1990.

MACA - REQUEST - BANNERS ACROSS MAIN STREET: The City Manager presented a request from MACA to place a banner across Main Street from November 26, 1990 to December 9, 1990 to advertise their upcoming production of BLITHE SPIRIT.

The City Manager stated that he had talked with Ms. Sandra Epperson, Executive Director since he had received the request and had told her that he planned to request that a policy be established that no banners be hung across Main Street during the time that the Christmas decorations are up since the decoration required two of the banner cables to be held up and it contained electrical wires for the lighting. He stated that Ms. Epperson stated that at the time the request was written, the decorations had not been put up. She stated that she agreed that a banner should not be hung up and it could be placed on their building.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to establish a policy that no banners will be hung across Main Street during the time the Christmas decorations are up.

TAX REFUND - VOLVO FINANCING: The City Manager presented a memorandum from Ms. Claudia Hill, Tax Collector for a refund for Volvo Financing in the amount of $107.73. The memorandum stated that one vehicle billed was located outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to approve the tax refund to Volvo Financing in the amount of $107.73.

LONGEVITY CHECKS - REGULAR PART TIME EMPLOYEES: The City Manager stated that in the past, part time employees that worked each week had been given a $25.00 Christmas bonus. He stated that this was not discussed at the last meeting.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to give regular part time employees a $25.00 Christmas bonus.

TURKEYS FOR EMPLOYEES - CHRISTMAS: The City Manager stated that in the past, each employee had been given a turkey for Christmas. He stated that the price of turkeys was cheaper at Thanksgiving rather than Christmas.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to give turkeys to City employees at Christmas.

STREET COMMITTEE RECOMMENDATIONS - INTERSECTION OF NORTH MAIN STREET AND MONTEVISTA AVENUE: The City Manager stated that the Street Committee had met and would like to recommend that no left turns be allowed from Montevista into Main Street. It was agreed that if the Department of Transportation cuts back the bank on the north-east side of the intersection of Montevista and Main, the Street could look at the need for the no left turn if requested.

Upon a motion by Councilman Cross seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Ordinance:

ORDINANCE
PROHIBITING LEFT TURN FROM MONTEVISTA AVENUE
INTO NORTH MAIN STREET (U.S. HIGHWAY 70)

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

Section 1. When signs are erected or authorized markers are painted at the intersection, it shall be unlawful for the operator of any vehicle to make a left turn, with said vehicle, from Montevista Avenue into North Main Street (U.S. Highway 70).

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 20th day of November, 1990.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

APPOINT ONE MEMBER - RECREATION COMMISSION - TERM OF FRED KOON: The City Manager stated that the term of Mr. Fred Koon on the Recreation Commission had expired October 16. He stated that at this time, a new resolution requiring two members to be appointed from the City had been adopted by the City, however, the resolution had not been adopted by the County or the Town of Old Fort.

A discussion followed. Council was of the opinion that until the three governing boards agreed on a resolution that the old resolution would remain in effect and the members on the committee would rotate off when their term expired to allow the correct number of persons representing each board.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to reappoint Mr. Fred Koon to the Recreation Commission subject to his acceptance. Said term will be in effect until October 16, 1993.

LEASED PARKING LOTS: The City Manager stated that some time ago, the City leased lots in the downtown area for parking. He stated that at this time, the only lot being leased was at the corner of Logan and Henderson Streets behind the Country

Goose Cafe. He stated that he would like to recommend that the lease be discontinued.

Councilman Little asked if the lease was discontinued would the City provide lighting to the lot? He was advised that unless the Police Department requested the lot be lighted, it would be left up to the owner.

A discussion continued. Council agreed to refer the matter to the Street Committee.

WIDENING OF LOGAN STREET: The City Manager presented several letters from Mr. Tony Moore, District Engineer, DOT and his responses concerning the widening of Logan Street at Main Street.

The City Manager stated that at this time, the City had agreed to fill the tanks with sand and to remove the pump island on the south-east side of the intersection, at Century 21. The City Manger stated that, in his opinion, the City should not take any responsibility for the underground tanks beyond filling them with sand. He informed Council that he was concerned about possible future complaints concerning environmental problems relating to the underground tanks and did not wish to see the City held responsible for the tanks.

A discussion followed. Councilman Little stated that he felt that if the City filled the tanks and a problem arose due to work being done by DOT, they should have to take responsibility.

Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to fill the tanks with sand, take out the pump island and then black top over the tanks.

Councilman Stronach stated that he had been told that there were tanks located on the property where the fire station was to be located. He stated that if there were tanks located there, they should be filled at the same time.

CHRISTMAS PARADE: The City Manager presented an invitation to Council to ride in the Marion Christmas Parade to be held on Saturday, December 8, 1990 at 9:00 A.M. He stated that he had also received an invitation for Council to ride in the Old Fort Christmas Parade which would be held on Saturday, December 1 at 3:00 P.M.

SEWER PROJECTS - CLINCHFIELD/FOREST ROAD IMPROVEMENTS -UPDATE: The City Manager presented a financial statement to Council concerning the sewer projects in the Clinchfield/Forest Road area. He stated that all the easements for the Clinchfield project had been taken care of and there were two easements needed for the Forest Road project. He stated that he was not aware of a problem with the easements, it was just a matter of getting them signed.

STREET DEPARTMENT PROJECTS - UPDATES: The City Manager stated that the sidewalk project at Etta Packaging had been completed. He stated that the concrete for the sidewalk at Fort and Main had been poured earlier today. He stated that the project should be completed in the next week if the weather permitted.

The City Manager stated that the light poles would be put in for the intersection of Main and Fort Streets within the next week and DOT would be putting in the signal box. He stated that it had been requested some time ago that a lead and lag light be placed at the intersection. He stated that if Council wished to install the lead and lag that it should be done at this time. Council was in agreement to request the lead and lag.

LOCATION - NEW FM RADIO STATION: The City Manager stated that a new FM Radio station would be located in the old MACA Building on Brown Drive. He stated that there had been some questions concerning the wall of the MACA Building that faces the Police Department with the mural on it. He stated that the City owned the wall and it may be requested that the wall be painted over. A short discussion followed, but no decision was made.

CHRISTMAS LIGHTING: The City Manager advised Council that the Christmas lights should be turned on Thanksgiving night. He stated that the City had purchased a gazebo to be placed in the park at the corner of Brown Drive and Main Street. He stated that the gazebo would be painted white and would have removable red windows to be placed there at Christmas for a Santa House.

EXECUTIVE SESSION - PERSONNEL MATTER: Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to go into Executive Session to discuss a personnel matter.

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

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

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

December 4, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, December 4, 1990 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor Pro-Tem Robert Ayers; Councilmen Angus Stronach; Steve Little; and Joe Tyler. Councilman John Cross arrived at 7:08.

BOARD MEMBERS ABSENT: Mayor A. Everette Clark.

OTHERS PRESENT: 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.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, those members of Council present voted unanimously to approve the minutes of the November 20, 1990 meeting.

TAX REFUND: Mayor Pro-Tem Ayers presented a memorandum to Council from Ms. Claudia Hill, Tax Collector, requesting refunds to the heirs of Florence Bright in the amount of $259.54, and Dr. Paul Yun in the amount of $$56.35. The memorandum stated that the property belonging to the heirs of Florence Bright was located outside the City Limits and Dr. Yun had received duplicate bills for the personal property in his office.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, those members of Council present voted unanimously to refund the heirs of Florence Bright $259.54 and Dr. Paul Yun $56.35 for taxes billed in error as stated above.

RESOLUTION - CLAREMONT AVENUE BRIDGE: Mayor Pro-Tem Ayers stated that a Resolution and Agreement between the City of Marion and Thompson, Gordon & Shook Engineers had been entered into on October 30, 1990. He stated that the contract and agreement must be prior approved by the State.

Mayor Pro-Tem Ayers stated that since the Resolution and Agreement had been approved prior to State approval, they must be adopted again.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Resolution and authorize the Mayor and City Manager to execute any and all documents relating to the agreement.

Copy of a Resolution Passed by the City Council of the City of Marion, North Carolina

The following Resolution was introduced, and Councilman Stronach moved that it be adopted. The motion was seconded by Councilman Tyler, and upon being put to a vote, the Resolution was unanimously carried;

WHEREAS, the City of Marion proposes to make certain improvements under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said improvements to consist of the replacement of the concrete, masonry, and steel structure on Claremont Avenue over Young's Fork under Project 8.2870201 (b-1471), McDowell County; and,

WHEREAS, the City of Marion proposes to enter into an agreement with the North Carolina Department of Transportation for said improvements wherein the City of Marion agrees to prepare the planning report, design the project, make all necessary utility adjustments, acquire the right-of-way, and further agrees to construct the improvements; and,

WHEREAS, under the proposed agreement, the city of Marion shall participate in the total allowable project costs to the extent of 20 percent, with the Department of Transportation to reimburse the City of Marion for 80 percent of the total allowable project costs as set out in the agreement.

NOW, THEREFORE, BE IT RESOLVED that the agreement for the herein referenced improvements, under Project 8.2870201, McDowell County, is hereby formally approved by the City Council of the City of Marion and the Mayor and City Clerk of this Municipality are hereby empowered to sign and execute the required agreement between the City of Marion and the Department of Transportation.

This Resolution was passed and adopted the 4th day of December, 1990.

Robert Ayers

Robert Ayers, Mayor Pro-Tem

I, J. Earl Daniels, Clerk of the City of Marion, North Carolina, do hereby certify that the foregoing is a true and correct copy of excerpts from the minutes of the City Council of this municipality.

WITNESS, my hand and the official seal of the city of Marion on this the 4th day of December, 1990.

J. Earl Daniels, City Clerk

NEBO SCHOOL - WATERLINE EXTENSION - UTILITY COMMITTEE -REPORT ON MEETING: The City Manager had provided Council a memorandum concerning the proposed waterline extension to Nebo Elementary School. The memorandum stated that a meeting of the Joint Utility Committee and representatives from McGill Engineering, Isothermal Planning & Development Commission, and the McDowell County School Board had been present at the meeting. The memorandum stated that at the present time, Nebo School was operating on nine wells of which only two were producing water.

The memorandum stated that engineers had recommended that a ten thousand gallon water tank be installed to store water pumped during the night to cover shortfalls during the day. At this time, the school is using disposable utensils in the cafeteria and is experiencing problems flushing the toilets in the afternoons.

Mayor Pro-Tem Ayers stated that particular attention should be called to the Statute limiting the amount of funding that could be spent on an "in house" project. He stated that he had no problems with the statute since this could be classified as an emergency situation. He stated that if the City handled the project they could get help immediately and if the job was contracted out, it could be two to three years before the project was completed.

Councilman Stronach stated that officials from the school stated that if they could be assured that a line would be in place by the next school year, they could continue as is. He stated that he personally had no problems with the Statute and would recommend that the City do the project.

Councilman Little stated that he did not have any problems with the Statute in question as far as the City was concerned.

Mayor Pro-Tem Ayers stated that at the Utility Committee meeting, it was discussed that if the County and School Board would come up with the funds for materials, the City would put the line in.

Councilman Tyler asked what the cost of the labor would be and if the City would put the lines in at the culverts and bridge. He also asked if the extension could be made without the proposed twenty-four inch line leading from the reservoir that had been discussed in the past. He was advised that the labor would be approximately five times the estimate for the Rocky Pass extension, the bridge and culvert areas would be contracted and that the engineer was of the opinion that the water usage from the school would not be that large amount and that their peak times would be at different time than the peak time from the City.

Mayor Pro-Tem Ayers stated that he had been told that a majority of residents in Nebo were experiencing problems with their wells and he felt that once the line was in place, there would be several requests to tap on the system.

Councilman Little stated that he felt that the County should help with a portion of the labor costs. He stated that the line would not benefit City residents and

he did not feel it would be fair to them. He stated that he felt that an arrangement could be made to pay the amount on time.

Mayor Pro-Tem Ayers stated that at the Utility Committee meeting, he had asked if the renovations to the Old Fort School could be delayed and a portion of the funds used to extend a water line to Nebo. He stated that he had been advised that the funds must be spent for the project they had been designated to.

Councilman Stronach stated that he did not feel that the County should share in the cost of the labor because he felt that installation of the line would be a good business move for the City.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to cooperate and work with the County and School Board to install the water line to Nebo Elementary School provided the engineering statistics were feasible to run the line and provided the County and School Board provide all costs for engineering, contracting and materials and a substantial portion of the labor involved for the extension.

SPRINKLER SYSTEM - ESTABLISH CHARGE FOR CONNECTION TO WATER SYSTEM: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to table the matter until the Utility Committee had met.

MAYOR PRO-TEM AYERS - COMMENTS: Mayor Pro-Tem Ayers stated that in Monday's edition of the McDowell News, an advertisement had appeared representing a "welcome wagon" type service. In the advertisement, the lady was advertising as the "Official City Hostess". He stated that he did not know of the City appointing anyone to this position and he did not like her choice of words.

Councilman Cross stated that he had seen the advertisement and had called the number in the paper. He stated that he had been unable to get through to her, and would like to mention that the phone number was an out of town number.

Councilman Little stated that he resented someone using the title as City hostess and felt that the lady should be told not to use that phrase any more.

Council was in agreement to contact the lady and ask her to not refer to herself as "Official City Hostess".

APPOINTMENT - 150TH YEAR CELEBRATION STEERING COMMITTEE: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to appoint Councilman Steve Little to the 150th Year Celebration Steering Committee.

COUNCILMAN STRONACH - COMMENTS: Councilman Stronach reported on the following items: 1. He would like to see a written sign from Montevista into North Main Street - No Left Turns rather than the insignia. Councilman Little suggested that no left turn arrows be painted on the street. 2. Councilman Stronach stated that he was in favor of going ahead and filling the tanks at Century 21. He stated that Mr. Lunger was to send the City a letter giving them permission to fill the tanks if they were not located within the City's right-of-way.

COUNCILMAN TYLER - COMMENTS: Councilman Tyler stated that he was in favor of keeping the Blanton Parking Lot located at the corner of Henderson and Logan Streets. Councilman Tyler stated that he would like to make a motion that the lease be continued on a year to year basis. The motion did not receive a second. Council agreed to place the item on the agenda for the January 8, 1990 meeting.

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

Robert Ayers

Robert Ayers, Mayor Pro-Tem

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

December 18, 1990

The City Council for the City of Marion met in Regular Session on Tuesday night, December 18, 1990 at 6:30 P.M. at the Crossbow International Restaurant.

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; E.P. Dameron, City Attorney; and LuAnn Ellis, Secretary.

GUESTS PRESENT: Mrs. Nancy Clark; Mrs. Becky Cross; Mrs. Alice Little; Mrs. Edith Stronach; Mrs. Nancy Tyler; Mrs. Jonelle Daniels; and Mr. Kevin Ellis.

NEBO SCHOOL WATER LINE EXTENSION: The City Manager presented letters to Council from Mr. Gary McGill, City Engineer concerning the proposed water line extension to Nebo School.

One letter stated that the Nebo area contained thick layers of unfractured bedrock that do not transmit groundwater due to a lack of cracks and fissures. The letter stated that it was the opinion of the firm that groundwater was not available in the Nebo area. The other letter stated that the proposed line to the school should be dedicated to use by the school until larger lines could be placed from the storage tank and Baldwin Avenue to support additional customers.

The City Manager presented a letter to Council from Mr. Charles Burgin, City Attorney. The City Manager stated that it was the opinion of Mr. Burgin that due to the emergency situation that exists at the school, he felt that the City could proceed with the project as described in the North Carolina General Statutes 143-129.

Councilman Tyler asked if the water customers in the City would suffer from the line extension. He was advised that the times the school would be using the water, mainly during lunch, it would not be peek times for the City.

Councilman Stronach asked if the school planned to keep the storage tank as a reserve. Council agreed to request that the school keep the storage tank.

Mayor Clark stated that during the summer months, the water would stay in the pipes and become "dead water". He stated that something would have to be done to drain the pipes to eliminate this problem. A short discussion followed.

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

RESOLUTION
AUTHORIZING THE EXTENSION OF MUNICIPAL
WATER SERVICE TO THE NEBO ELEMENTARY SCHOOL

WHEREAS, the McDowell County School Superintendent has notified the McDowell County Board of Commissioners that a potentially dangerous situation exists at the Nebo Elementary School due to a lack of water that could force the school to be closed; and

WHEREAS, the McDowell County Health Department has verified this serious situation in a formal notification for immediate corrective action, a copy of which is attached that points out the likelyhood of disease and the failure to assure proper sanitary conditions for the children and school personnel; and

WHEREAS, a total of nine (9) wells have been drilled on the site and only two (2) are producing a total of between eight (8) and eleven (11) gallons of water per minute; and

WHEREAS, it is the opinion of a private engineering firm contacted for the purpose of helping to resolve this problem that the water needs of the Nebo school cannot be met by the immediate drilling of additional wells because of subsurface soil conditions in the area; and

WHEREAS, the Joint County-Municipal Utility Committee has investigated every reasonable and available means, including financial and other options, seeking a solution to this problem; and

WHEREAS, it is the express opinion of the McDowell County Board of Commissioners, the Marion City Council and the McDowell County School Board that a special emergency involving the health and safety of the students and staff of the

Nebo Elementary School does exist and that the emergency is present and immediate.

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

A) That formal bids for the purchase of the necessary materials to extend municipal water to the Nebo School site will take place immediately and that the County Manager is authorized to award said bid. Funds for the purchase will be obtained from the McDowell County School Capital Reserve Fund.

B) That the City of Marion using its own personnel and equipment will install the water line as soon as feasible and will own and be responsible for the maintenance of the line once installed.

C) That it is the opinion of the Marion City Council, the McDowell County Board of Commissioners and the McDowell County School Board based in part on a finding by the McDowell County Health Department, that a special emergency exists that involves the health and safety of McDowell County citizens and that it is the opinion of legal counsel for the City of Marion that the formal construction requirements based on the North Carolina General Statues 143-135 may be waived based on the emergency provisions of North Carolina General Statute 143-129.

ADOPTED this the 18th day of December, 1990.

Jack A. Wood, Chairman
McDowell County Board of Commissioners

ATTEST:

Clerk-to-the-Board

Everette Clark, Mayor
City of Marion

Clerk-to-the-Board

Joseph Kaylor, Chairman
McDowell County Board of Education

Clerk-to-the-Board

December 14, 1990

Mr. Jack Kirstein, Principal
1210 E. State Street
Nebo, North Carolina

Dear Mr. Kirstein,

The McDowell Health Department received complaints on December 14, 1990, concerning the inadequate water supplies at Nebo Elementary School. On this same date, an onsite review of the stated problems was performed by Mr. Fred Matthews, Environmental Health Supervisor, with the Rutherford-Polk-McDowell District Health Department, accompanied by Mr. Winston Riddle. During this site visit, it was found that an adequate supply of water was not <u>consistently</u> available to the school and that the students and faculty were encountering periodic problems with both an inadequate supply of water and at times insufficient water pressure. The provision of an adequate supply of water to an institution such as Nebo Elementary is a very basic essential time for the protection of Public Health in terms of preventing or controlling the incidence of diseases of the fecal coliform type. In addition, the proper operationable and maintenance of School Food Service

Facilities becomes very questionable in the absence of an adequate supply of water. It is apparent that the water supply and ultimately water pressure conditions at Nebo Elementary School continue to deteriorate which is necessitating this formal notification by the Health Department of the need for immediate corrective action. Therefore, the Public Health Department is requesting an immediate plan of correction to be developed and submitted to the Local Health Department for its review and consideration within the next 30 days.

If our Staff can assist you in anyway with this problem, please don't hesitate to call upon us.

Sincerely,
Clifford Fields
District Health Officer

PROJECT BIDS - WATER LINE EXTENSIONS: The City Manager stated that bids had been received earlier today for the Rocky Pass Water Line Extension and the Nebo Elementary School Extension for pipes and fittings. The bids were as follows:

Rocky Pass Project:

Grinnell	$53,175.77
Pump & Lighting	54,433.13

Rocky Pass and Nebo School Projects

Grinnell	$219,348.69
Pump & Lighting	230,496.28

The City Manager stated that the projects had been estimated at $59,730.00 and $231,455.00 respectively. He stated that the bids had come in lower which would save approximately $12,106.31.

CROSS MILL - PUBLIC HEARING TO SELL SOME PROPERTY: The City Manager provided Council with a copy of a Notice of Public Hearing for Cross Mill to sell some property they own. He stated that if the property was sold, the City would receive the tax revenue for those parcels.

The City Manager asked if Council wished for an attorney representing the City should attend the hearing. Council agreed that an attorney should attend the hearing.

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

January 8, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, January 8, 1991 at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Andre Huskins, Police Department; Johnny Patton, Police Department, Wade Oliver, Police Department; Freddie Killough, Director Downtown Business Association; and Woody Killough, President Downtown Business Association.

GUESTS: Mr. Doug Helms, Recreation Commission; Ms. Martha Fullington, NC Dept of Archives & History.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Little, Council voted unanimously to approve the minutes of the December 4, 1990 and December 18, 1990 minutes.

INTERMEDIATE LAW ENFORCEMENT CERTIFICATE - PRESENTATION - LT. ANDRE HUSKINS: Police Chief Gilsdorf presented an Intermediate Law Enforcement Certificate to Lt. Andre Huskins. The certificate was presented to Lt. Huskins for the six hundred plus hours of advanced training in police sciences.

Mayor Clark and members of Council congratulated Lt. Huskins for receiving the certificate.

RECREATION COMMISSION - PRESENTATION - MR. DOUG HELMS: Mr. Doug Helms of the Recreation Commission appeared before Council concerning plans for rebuilding the recreation structure on Academy and Court Streets which was recently destroyed by fire.

Mr. Helms brought drawings and a model of the proposed facility. He stated that the building would be smaller, however, the space would be more usable than the original building.

Mr. Helms stated that the major hold up was the settlement from the insurance company. He stated that at this time, they did not know the exact amount of funds that they would receive.

Council asked Mr. Helms several questions and thanked him for coming to the meeting.

DOWNTOWN HISTORIC DISTRICT - PRESENTATION: Ms. Martha Fullington of the North Carolina State Historic Preservation Office appeared before Council concerning the proposed districts in Marion nominated for the Historic District. Ms. Fullington stated that the properties would be presented to State representatives January 17, 1991 and then would be forwarded to the Department of the Interior in Washington, D.C. for final approval. She stated that it would be approximately two months before the final decision would be made.

Ms. Fullington stated that the property owner would be able to tear down, paint, or do anything to their property, that being listed in the Historic Register would not violate their property rights in any manner. She stated that in some cases, the property owner may be eligible for a twenty percent preservation tax credit on the federal level if the property was restored and put back into use for example, a house that was renovated substantially and made into a bank building.

Ms. Fullington stated that in the future, additional nominations could be presented to the State for approval.

SENIOR CENTER - REQUEST PLACEMENT OF BANNER - MAY 1 FOR SENIOR GAMES: The City Manager stated that he had received a request from the Senior Center that a banner be hung across Main Street May 1, advertising for the Senior Games.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, Council voted unanimously to allow a banner to be placed across Main Street May 1, 1991 advertising for the Senior Games.

A discussion followed concerning the possibility of leaving two additional poles in the downtown area for banners to be placed at another location if two requests came in during the same time.

MARION 150TH ANNIVERSARY FINANCE COMMITTEE - REQUEST FOR FUNDING: The City Manager presented a letter from Mr. Robert Gourley, Chairman of the 150th Anniversary Finance Committee to Council. The letter requested a $500.00 donation from the City for initial funding.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to approve the request for $500.00 for the Marion 150th Anniversary Finance Committee.

ORDINANCE - ADOPTION OF THE CITY CODE: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to adopt the following Ordinance:

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF MARION, NORTH CAROLINA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, NORTH CAROLINA:

Section 1. The Code entitled "The Code of the City of Marion" published by Municipal Code Corporation consisting of Chapters 1 through 20, each inclusive, is

adopted.

Section 2. All ordinances of general and permanent nature enacted on or before February 21, 1989, and not included in the Code or recognized and continued in force by reference therein, are repealed; provided, however, that the following items are not repealed and shall continue in full force and effect pending the adoption of superceding ordinances on the subjects to which they pertain:

1. Part 8, Chapter 3 entitled "Abandoned Vehicles" of the Code of 1982 including sections 8-3001 through 8-3008.
2. Part 5, Chapter 1 entitled "Water Supply and Distribution," Chapter 2 entitled "Sewerage Collection and Disposal," and Chapter 3 "Water and Sewer Extensions" of the Code of 1982 including sections 5-1001 through 5-3006.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not exceeding fifty dollars ($50.00) or by imprisonment not exceeding thirty (30) days. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City Council may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the City Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after February 21, 1989, that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This Ordinance shall become effective January 8, 1991.

Passed and adopted by the City Council this 8th day of January, 1991.

A. Everette Clark
Mayor A. Everette Clark

ATTEST:

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

O-91-1-8-1

ORDINANCE - REGULATION OF PAWNBROKERS: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

ORDINANCE FOR PAWNBROKERS

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

Section 1. The City Council herewith adopts the provisions of Chapter 91A, North Carolina General Statutes, "Pawnbrokers Modernization Act of 1989", in accordance with N.C.G.S. 91A-12.

Section 2. The City Council reserves the right to adopt further such rules and regulations governing this activity as it deems appropriate, subject to the specific limitations of Chapter 91A, and specifically the limitations of Section 91A-12.

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.

Mayor A. Everette Clark

ATTEST:

J. Earl Daniels, City Manager/Clerk

O-91-1-8-2

GRIEVANCE COMMITTEE - APPOINTMENTS: The City Manager presented a listing of persons currently serving on the Grievance Committee. A discussion followed concerning the length of terms and the number of supervisors allowed to serve on the committee. Council was in agreement to hold the matter until the next meeting.

CABLEVISION - REPORT - RATE INCREASE: The City Manager presented Council with a letter from Mr. Wayne Ollis, General Manager of McDowell County Cablevision concerning a rate increase. The letter states that beginning January 1, 1991, the cablevision bills will reflect a portion of the increase as a franchise fee which is paid to local governments. The letter states that the fee is not new, however, the company is no longer able to afford to absorb the cost due to other increases in operating costs.

Councilman Little stated that he felt that the letter was intentionally written for false interpretation. He stated that he did not approve of the wording of the letter.

The City Manager stated that in December of 1986, the Federal Government relieved the local governments from controlling the prices charged by cable companies. He stated that the company was pretty much a monopoly because no other company existed in the city. He stated that the cable company would argue that there was competition because persons could buy a satellite dish, have an outside antennae, or rent movies.

Councilman Cross stated that he had problems with the wording of the letter being misleading.

Councilman Stronach stated that the County was protesting the rates because they did not give a thirty day notice for the rate increase to the County as their franchise required.

Councilman Ayers stated that he felt that the wording in the letter should have been clearer and that the next time the franchise was renewed, he would like to request that a profit and loss statement be required.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to request that the City Manager write a letter to Mr. Wayne Ollis, General Manager expressing Council's disagreement with the wording of the letter.

AGC - RECORDKEEPING: The City Manager stated that the Utility Committee had met with one contractor and a representative from AGC last week concerning the Nebo School Project. He stated that from the meeting, it appeared that they would not pursue the matter further, however, they would like the City to provide documentation to the group for comparison. He stated that they were apparently going to bid out the job and compare the contractor prices with the City's costs to do the project.

The City Manager stated that he had spoken with two attorneys concerning the matter and they agreed that the City did not have to keep or provide any additional records. He stated that the contractors would have costs such as overhead, marginal profit, mobilization, employee travel expenses and etc. He stated that they would actually be comparing apples to oranges.

Councilman Little stated that he did not feel that the City should go to an additional expense to keep the records.

The discussion continued. Council was in agreement to proceed with normal recordkeeping.

CITY OWNED BUILDINGS - COURT STREET - REMOVAL: The City Manager stated that with the uncertainty of the economy at this time, he would like to have the opinion of Council on removing the City owned buildings on Court Street where the proposed fire station would be located.

It was the opinion of Council to remove the buildings if the crews had the time to do the project.

APPOINTMENT - FIREMEN'S RELIEF FUND: The City Manager stated that the term of

Councilman Little on the Firemen's Relief Fund had expired December 31, 1990.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to appoint Councilman Little to serve on the Firemen's Relief Fund. Said term will expire December 31, 1993. Councilman Little will be serving with Councilman Ayers (term ends December 30, 1991).

REPORTS:

1. CHRISTMAS - DOWNTOWN: The City Manager stated that he had received a lot of comments concerning how nice the City looked during the Christmas season.

2. COUNCILMAN AYERS - COMMENTS: Councilman Ayers asked what the status of the sewer situation with having businesses tie into the sewer system on the Five-Lane was. He was advised that the Health Department was looking into requiring the businesses to connect to the system.

3. COUNCILMAN CROSS - COMMENTS: Councilman Cross stated that he felt that Council should comment on the letter they had received from the North Carolina League of Municipalities concerning the possibility of the City losing state funding. The City Manager stated that the County Manager was trying to set up a Joint Meeting of the three governing boards and the local members of legislature to discuss these items before the General Assembly went into session.

4. MAYOR CLARK - COMMENTS: Mayor Clark stated that he had been asked to chair the League Committee that he had served on again this year. He stated that he had accepted.

5. COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he had received two complaints concerning the By-Pass. He stated that someone had complained that By-Pass entrance and exit signs was not clear. He stated that he had also received a complaint concerning area lightning at the southern end of the By-Pass at the 221-226 intersection.

Councilman Cross stated that he had received a complaint that persons exiting the By-Pass at Henderson Street were exiting too fast.

Chief Gilsdorf was directed to look into the matters.

Councilman Ayers stated that he would like for the Police Chief to look into the traffic light situation through town. He stated that he could not get through town without stopping for every traffic light. Police Chief Gilsdorf stated that he would contact DOT for a timing study.

DOWNTOWN BUSINESS ASSOCIATION - SUPPORT OF TROOPS IN SAUDIA ARABIA: Ms. Freddie Killough stated that the Downtown Business Association would be holding a small ceremony, supporting McDowell County citizens serving in Saudia Arabia. She stated that the ceremony would be Monday, January 14, 1991 at 12:00 on the Courthouse Lawn.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

RESOLUTION
SALUTING McDOWELL COUNTY CITIZENS
SERVING IN THE ARMED FORCES

WHEREAS, the Armed Forces of the United States of America are presently involved in Operation Desert Shield in Saudia Arabia, and

WHEREAS, a number of persons from McDowell County are serving in said Armed Forces, and

WHEREAS, the Marion Downtown Business Association will be conducting a program recognizing McDowell County Citizens serving in the Armed Forces of the United States and their families on the McDowell County Courthouse Lawn at noon on Monday, January 14, 1991.

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Marion unanimously support the Marion Downtown Business Association in their salute to persons from McDowell County serving in the Armed Forces in Operation Desert Shield.

ADOPTED this the 8th day of January, 1991.

A. Everette Clark
Mayor A. Everette Clark

ATTEST:

J. Earl Daniels, City Manager/Clerk

TAXICAB ORDINANCE - PROBLEM - CHIEF GILSDORF: The Police Chief stated that he had received a permit for a taxicab driver. He stated that the permit had been applied for in December 1989. He stated that the person who had applied for the permit had received a DUI conviction in November 1989 in the state of Florida. He stated that the permit had been issued in January 1990, the application had stated that there had been no convictions. He stated that in May 1990, he had received notice that the license had been revoked until May 1991 due to the conviction. He stated that the person had received a limited permit to drive during the time the license was revoked which would allow the person to operate the taxicab. He stated that he would like some direction as to issue the permit or not. He stated that he could deny the permit because the person had not told him of the conviction, however, it would put him at odds with the judge that issued the limited permit. He stated that if he did issue the permit, he would like to tell the person that he and the owner could be fined.

A short discussion followed. Council was in agreement to issue the permit, however, they would like for the operator and the owner to be warned this situation should not occur again.

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

January 22, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, January 22, 1991 at 7:00 P.M. in the City Council Chamber.

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

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

GUESTS PRESENT: Mr. Fred Williams, Duke Power Company; Mr. Dean Young, Duke Power Company; Mrs. Tillie Twitty, 405 Hudgins Street; Mrs. Odell C. Forney, 215 Morehead Road; Ms. Phyllis McDowell, Morganton, N.C.; Mrs. Ralph Rutherford, Marion; Ms. Cora Frazier, Marion; and Ms. Betty Rigby, 215 Morehead Rd.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the January 8, 1991 meeting.

RESOLUTION - MEMORY OF MR. RALPH RUTHERFORD: Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to adopt the following Resolution:

RESOLUTION IN MEMORY OF RALPH RUTHERFORD

WHEREAS, Mr. Ralph Rutherford served as a member of the City of Marion Tree Advisory Board for four years, giving generously of his time and efforts, unselfishly in all deliberations, and

WHEREAS, Mr. Ralph Rutherford served as a member of the City of Marion Board of Elections for ten years, in a dignified, faithful, impartial and business-like manner.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Marion that this Resolution be presented to Mr. Rutherford's widow, Mrs. Carolyn Rutherford as a token of appreciation for his long and dedicated service to the citizens of Marion, North Carolina.

BE IT FURTHER RESOLVED that this Resolution be made a part of the permanent records of the City of Marion, North Carolina.

ADOPTED this the 22nd day of January, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Mayor Clark presented the Resolution and a Certificate of Appreciation to Mrs. Rutherford. He stated that he would like to say that Mr. Rutherford was a very dependable and faithful person to serve the City in any way that he could and he would surely be missed.

Councilman Tyler stated that he felt that his life had been enriched by knowing a person such as Mr. Rutherford.

The City Manager stated that he would like to say that Mr. Rutherford was very dependable in working with the City, and worked very hard for the City, in fact, he did not believe that he missed a single meeting that was held.

Mrs. Rutherford thanked Council for the Resolution and Certificate. She stated that she knew that Mr. Rutherford would be very proud and that he enjoyed working with the City.

COMMENTS - MRS. TILLIE TWITTY: Mrs. Twitty stated first of all, on behalf of the West Marion Community, she would like to thank Council for their token of appreciation to Mr. Rutherford's widow.

Mrs. Twitty stated that she had several concerns as follows: 1. The West Marion Community would like to recommend that Mr. Leroy Goode be appointed to serve the unexpired term of Mr. Rutherford on the Board of Elections. 2. Mrs. Twitty stated that there was a concern in the community that a traffic light needed to be placed at the exit of the Marion By-Pass at the Sugar Hill/West Henderson location. She stated that it was impossible to get onto Sugar Hill/West Henderson from Woodlawn. 3. Mrs. Twitty stated that there was a problem with drainage water on Hudgins Street when it rained. She stated that the water went to Yancey Street and came up on the porches in the area.

Mayor Clark stated that at this time, the City was in the process of transferring the municipal elections to the County Board of Elections. He stated that in the event the elections remained in the City, the recommendation of Mr. Leroy Goode would certainly be considered.

The Chief of Police stated that at this time, a counter from DOT was in that area and he was certain that information he gathered would justify the need for a light at the Sugar Hill/West Henderson Street By-Pass exit.

Mayor Clark stated that the drainage problem would be referred to the Public Works Department.

REQUEST TO PLACE BANNER - BOY SCOUT TROOP: The City Manager presented a request to Council from Ms. Joyce Rumfelt, Scout Show Chairperson. The request stated that they would like to place a banner across Main Street from April 1 to April 13 advertising for the Scout Show.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to approve the request.

REQUEST TO PLACE BANNERS - MACA: The City Manager presented a request to Council from Ms. Sandra Epperson, Director of MACA to place the following banners:

1. February 11 through February 24 - David Wise Concert.
2. February 25 through March 10 - Steel Magnolias production.
3. April 29 through May 12 - Come Back Little Sheba production.

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

unanimously approve the request.

MR. FRED WILLIAMS - DUKE POWER COMPANY - COMMENTS: Mr. Fred Williams of Duke Power appeared before Council and stated that effective February 28, he would be retiring. He introduced Mr. Dean Yancey to Council and stated that he would be over the Marion and Tryon area offices after he retired.

Mayor Clark stated that he would like to express his appreciation to Mr. Williams for his cooperation with the City in the past and that he would miss him, however, he was looking forward to working with Mr. Yancey.

BUDGET AMENDMENT - CAPITAL RESERVE FUND: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Budget Amendment:

1990-91 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 1990-91 as adopted by the City Council on the 28th day of June, 1990 is hereby amended as follows:

CAPITAL RESERVE FUND

Section 1. Revenues - Decrease the amount of Appropriated Fund balance from $455,631 to $435,582.

Section 2. Expenditures - Decrease the amount of Reserved For Future Expenditures from $617,931 to $597,882.

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 22nd day of January, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

APPOINTMENTS - GRIEVANCE COMMITTEE: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to appoint the following persons to the City of Marion Grievance Committee: Chairman Angus Stronach, Secretary Robert Parker, Buck Byrd, Will Twitty, Lee Dillingham, Nora Arrowood and Arthur Edwards. The terms will expire December 31, 1991.

RAILROAD CROSSING - CLAY STREET - AGREEMENT: The City Manager presented an agreement for plans, and materials to Council concerning the proposed Railroad Crossing at Clay Street. He stated that an agreement had been entered into with the Department of Transportation early last year.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to allow the City Manager and Public Works Director to review the plans and submit them to the Department of Transportation. A copy of the plans and materials list can be found in the safe under Legal Document Number 563.

REQUEST TO CLOSE JOHNSON STREET - DAVID BRADLEY AND MS. CAROLYN ZACHARY: The City Manager presented a request to Council from Mr. David Bradley and Ms. Carolyn Zachary to close a portion of Johnson Street.

The City Manager presented copies of maps to Council showing the location of the street. He stated that the street runs from Flemming Avenue through Fern Avenue and Montevista Avenue. He stated that several years ago, a portion of the street was closed.

The City Manager stated that it was currently City policy to require that the person requesting the street to be closed to bear the cost of advertisements, legal fees, posting of the property and notification of the property owners. A discussion followed.

Councilman Little made a motion to notify Mr. Bradley and Ms. Zachary, explain to them the procedure concerning the costs involved and ask if they would be willing to notify all the property owners to close the entire street.

Councilman Stronach stated that at this time, the City had access to the property for water lines, etc. He stated that he would like to request that the Street

Committee look into the matter. The City Manager stated that the deeds could state that the City reserves the right for utility easements.

Councilman Little stated that he would withdraw his motion and request that the Street Committee to look into the matter.

TREE CUTTING - CITY PROPERTY: The City Manager stated that a gentleman had called and asked if he could cut wood from fallen trees on City property near the Water Filter Plant. The City Manager stated that he explained to the gentleman that the trees would have to be declared surplus by Council and an advertisement placed in the paper accepting bids on the sale of the trees. The Manager stated that it would be more trouble than it was worth to the City. He stated that the next Saturday, the gentleman called again and told him that someone was cutting trees on City property. The City Manager stated that he told the person to call him on Monday and he would check into the matter. The gentleman called the Manager again on Sunday morning to advise that someone was cutting wood on City property. The Manager said that he would call the Police Department to look into the matter. He stated that a few minutes later, the person called back and wanted to know if he had called someone. The City Manager stated that he called the Police Department and asked that the Public Works Director and the Police check on the problem.

The Police Chief stated that Lt. Andre Huskins and Glen Sherlin, Public Works Director went to the property and observed two persons cutting wood. They had two truckloads of wood at the time. He stated that the persons stated that they had been given permission to cut the wood from a third party who he did not know, but did know he was not connected to the City in any way. He stated that at this time, they had not been directed to charge anyone so the officer left the scene and was to return the next day to estimate the damage. The next day, Officer Slagle went to the scene and observed that approximately twenty three trees, ranging from six inches in diameter to twenty inches in diameter of oak type wood had been cut. In addition, dumping of appliances was discovered which had not been there the preceding day and two deer stands were observed on the property.

The Police Chief stated that if the persons intentionally stole the wood, they could be charged with a felony. He stated that otherwise, they could be charged with a misdemeanor. He stated that a forest ranger would come to estimate the damage for one hundred fifty dollars plus court costs. He stated that he would like to have guidance from Council on how to handle the matter.

Councilman Cross stated that at this time, the City had not lost any money unless they were going into the wood business.

Councilman Ayers asked if the truckloads of wood was gone. He was advised that they were because at the time of the initial investigation, no charges were to be filed. The City Manager stated that he thought the persons were getting dead wood and did not know they were cutting trees. He stated that he felt that if something was not done now, the problem would continue.

Councilman Little stated that he was concerned about the person who asked permission and then saw persons cutting the wood and reported it if nothing was done to them.

Mayor Clark stated that he felt that the persons should at least pay for the wood.

Councilman Stronach asked the Chief if the persons knew they were cutting wood on City property. He stated that he was almost certain that one of the three persons knew they were on City property. The discussion continued.

The City Manager stated that he would prepare an ordinance for the next meeting that all ordinances applying to City property inside the City Limits would apply to property the City owned outside the City Limits.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to request that the persons reimburse the City for two truckloads of wood and replant all the trees they cut with similar type trees not of the seedling type. The Police Chief was directed to pursue the matter as a misdemeanor if the persons declined to pay or replant the trees.

REPORTS:

1. **MEETING WITH LEGISLATORS:** The City Manager stated that as Council knew, a meeting was held with the local legislators concerning items that would come up in this session relating to local governments. He stated that the main concern was mandates that cost the City money with no state reimbursements.

2. **CERTIFICATION OF CITY EMPLOYEES:** The City Manager stated that one of the mandates on local government related to persons becoming certified in the areas they worked. He stated that Mr. Larry Ballard and Mr. Steve Lunsford had passed the examination and were Grade C Water Distribution Workers.

3. **ANNUAL RETREAT:** The City Manager stated that the Annual Retreat would be

February 2 and February 3 at the Broyhill Inn in Boone. He stated that no one other than the Mayor and members of Council would be attending the meeting. He stated that he would like to know if they had special topics to discuss.

4. DOT PROJECTS: The City Manager stated that the bank at the intersection of Main and Montevista had been partially removed to improve visibility. He stated that the tanks located at the Century 21 Building at the intersection of Logan and Main would be filled in the next few days and the pump island removed by City crews so DOT could begin to widen the intersection.

5. COMMENTS - COUNCILMAN LITTLE: Councilman Little stated that he would like to look at the ordinance concerning no left turns from Montevista now that the bank had been partially removed. He stated that he would like to have a right turn on red at the intersection of Court and Garden during the hours of 7:00 - 7:00. Mayor Clark stated that he would like to see if a left turn could be allowed at the intersection of Court and Main since the traffic flow was not as heavy.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 5, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, February 5, 1991 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Robert Ayers.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Nora Arrowood, Police Department; Arthur O'Dear, Police Department; Glen Sherlin, Public Works Director; Freddie Killough, Downtown Development Director; and Lydia Carrington, News Reporter, The McDowell News.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the January 22, 1991 meeting.

HABITAT FOR HUMANITY - REQUEST TO HANG BANNER: The City Manager presented a request from Habitat for Humanity to hang a banner across Main Street from March 28 to April 28 advertising for the annual Jamboree. He stated that Mr. Mark Tokay, Publicity Chairman had been contacted and advised that City Policy stated that banners could only be hung for two weeks. Mr. Tokay asked if the banner could be hung for two weeks and taken down, then put up for another two weeks. The City Manager stated that Mr. Tokay had been advised that the policy was to hang banners for a maximum of two weeks per event. Mr. Tokay agreed to request that the banner be hung from April 15 to April 29.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to grant the request to hang the banner from April 15 to April 29.

REPORT - FREDDIE KILLOUGH - MAIN STREET STATUS FOR SMALL TOWNS: Mrs. Freddie

Killough appeared before Council concerning the Main Street Program. She stated that a new program had been started for smaller towns with populations under five thousand. She stated that applications had been submitted in the past and had been turned down, however, most of the items that they required had been done. She stated that if the Downtown Board agreed to proceed with the project, she would need a resolution of support from Council and would need verification of funding.
Mayor Clark asked what the benefits would be and if there was a cost. Mrs. Killough stated that persons would come in and advise her concerning beautification efforts, economic development and other items. She stated that the cost was $2,500.00.

Councilman Little asked if the benefit would be worth the cost. Mrs. Killough stated that she did not know. She stated that they would choose three towns this time to use as role models for other towns and she felt that all the work that had been done here, Marion would be approved. The City Manager stated that he did not want the Main St. Program to take credit for what the City had done on its own.

Councilman Stronach stated that if the Downtown Board agreed to submit an application and pay the fee, he would not be opposed to the idea, however, he did not feel that the City should fund the application.

The discussion continued. Mrs. Killough stated that she would take the matter to the Downtown Board and would report back to Council.

BOARD OF ELECTIONS - AGREEMENT WITH COUNTY BOARD OF ELECTIONS: The City Manager presented the following letter to Council from the McDowell County Board of Elections:

DATE: February 1, 1991

TO: MARION CITY COUNCIL

SUBJ: McDowell County Board of Elections Conducting Municipal Elections for the City of Marion.

The resolution requesting that the McDowell County Board of Elections begin conducting elections for the City of Marion has been taken under careful consideration.

We are pleased to announce that your request has been approved by the McDowell County Board of Elections providing the following is concurrently approved by the City Council and the McDowell County Board of Commissioners:

All expenses pertaining to the City of Marion election will be borne by the City. These expenses will be billed to the City by voucher from the McDowell County Board of Elections for the City to pay directly to those concerned as listed below. Estimated election expenses will be submitted upon request for planning purposes.

(1) McDowell County Board of Elections members will be paid at county rates for necessary meeting pertaining to the city elections, on election day if present, and on Canvas Day if needed.
(2) Precinct workers will be paid at county rates. These include the registrar, judges, and clerks as needed on election day.

(3) Cost of Election Ballots and the printing of Booth Cards.

(4) Cost of Prompac Programming for Precinct Ballot Counters. (At least two will be programed).

(5) Publishing public notices in the local newspaper as required by law.

Because of the anticipated increase in the Supervisor of Elections workload in maintaining a separate city registration along wit the initial surge and continued maintenance of this system of inputing new data in the computer files, and the additional pre-election preparation (often overtime) and the supervision of the elections from very early morning until late at night; we therefore, request that the election supervisor's salary be increased by 10 percent or initially $1,500.00 per year commencing with the next fiscal year July 1, 1991. This payment of salary for the Supervisor is to be deposited with the McDowell County Finance Office earmarked for payment in normal payroll increments to the McDowell County Supervisor of Elections.

All coordinating and communicating channels between the McDowell County Board of Elections, Supervisor of Elections, and the Marion City Manager or his assistant are encouraged to enhance the election process as required by law.

When countersigned by all parties, a copy of this agreement will be filed with the North Carolina State Board of Elections. This agreement will remain in effect until mutually cancelled.

McDowell County Board of Elections

_____ Chairman
Robert J. Ramsey

_____ Secretary
Jean B. Whitson

_____ Member
S. R. (Jack) Triplett

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the agreement and authorize the Mayor and City Manager to execute the document.

ORDINANCE - CITY ORDINANCES TO APPLY TO CITY OWNED PROPERTY LOCATED OUTSIDE THE CITY LIMITS: Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following ordinance:

ORDINANCE
CITY ORDINANCES APPLY TO CITY OWNED PROPERTIES LOCATED OUTSIDE THE CITY LIMITS

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

Section 1. That all ordinances of the City of Marion shall apply to all city owned properties located outside the Marion City Limits.

Section 2. This ordinance shall be in full force and effect upon its adoption.

Adopted this the 5th day of February, 1991.

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels, City Manager/Clerk

BID TABULATIONS - PURCHASE OF A ONE TON TRUCK WITH DUMP BED:

The City Manager stated that a Bid Opening had been held earlier in the day for the purchase of a one ton truck with dump bed. The bids were as follows:

Darrell Ford Mercury	$16,688.20
Ken Wilson Ford	17,340.00
Matthews Ford	16,997.00

He stated that the Public Works Director would like to recommend that the low bid of Darrell Ford Mercury be accepted.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to accept the low bid of Darrell Ford Mercury.

WATER AND SEWER ORDINANCE: Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following ordinance:

WATER AND SEWERAGE

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

ARTICLE I.

WATER SYSTEM

Section 1. Service contracts to conform with pertinent provisions.

All pertinent provisions of this chapter shall govern the terms and conditions of the contracts under which the City furnishes water service to any person, or whereby the City makes any water connections or performs any work of any kind in connection with the furnishing of water service.

Section 2. Water connections to be made within thirty days after mains are ready for use.

Within thirty days after the water main in any street is completed and ready for use, the owner of every abutting lot whereon water is needed for human use, shall cause such lot to be connected with such water main. Provided, however, that the owner of the premises shall be notified in writing by the City of the installation of such water main, and they shall be allowed thirty days within which to make the required connection or connections.

Section 3. Connections to be made by City of under supervision of City.

The construction of laterals for the connection of the water pipes on any lot with water pipes in any street, as well as the necessary excavation therefor, shall be done by the City, or if done by a licensed plumber, shall be done under the supervision of the City.

Section 4. Applications for connections.

Every application for a water connection shall state the name of the owner of the lot, the purpose for which the water is to be used, an estimated amount of water to be used daily, the name of the street on which the lot is situated, the number of the house, if there is one on the lot, or, if not, a description of the location of the lot, the number and kind of connections desired and the character of surface of the abutting street. Every application shall be signed by the applicant, shall be accompanied by the proper fee for making connections and shall be filed with the City water department.

Section 5. Service pipe extensions.

No service pipe shall be allowed to run across lots, that is, from one lot to another, but it must be taken from the main in front of the premises or from some point adjacent thereto, unless specific permission is obtained from the Public Works Director. The Public Works Director shall have the power to extend a service pipe to a house not located on a main line. All additional expenses for such extensions shall be paid by the owner of the property.

Section 6. Right to enter premises.

Whenever it becomes necessary to enter any premises, stores or dwelling, for the purpose of inspecting water pipes, fixtures, meters; etc., the Public Works Director or his agent may do so within reasonable hours; should the Public Works Director or his agent be refused admittance, the supply of water shall be cut off until said examination is made and the required information is obtained, or until repairs and alterations are made.

Section 7. Separate connections required.

Every dwelling unit, separate business, or building abutting any water main shall be separately and independently connected, except in those cases where laterals from such main have already be laid in macadam or improved streets, without provisions having been made for such house, business, or building, then the connection may be made to any existing lateral. If such house, business or building is on an improved street where laterals have not been laid, the connection may be made to any convenient lateral. When two (2) or more houses, businesses, or units are connected with the same lateral, a separate water meter shall be provided for each such house, business or unit.

Section 8. Water meters.

The water meters furnished by the City or connected to the City water system shall remain property of the City and will be serviced by the water department of the City.

Section 9. Connections from outside of City.

The City Council shall adopt a policy regarding connection of any water line or system outside the City, and establish such terms, conditions and rates as it deems necessary in providing water service outside the City.

ARTICLE II.

WATER SUPPLY

Section 1. Classes of service.

Water shall be furnished to consumers at metered rates only.

Section 2. Meters.

(a) Every regular consumer of water shall be supplied with a meter by the City,

which meter shall be under the exclusive control of the Public Works Director, for which the consumer shall deposit an amount as determined by the Council and filed in the Clerk's Office; this amount shall be refunded by the City in the event that such consumer discontinues the use of City water, less all charges which may stand against such consumer.

(b) Water meters shall be located at the property line adjacent to a street or alleyway or at such other location as determined by the Public Works Director. The person in whose name the service is rendered shall be responsible for water rents.

Section 3. Schedule of Water Rates.

The schedule of water rates as set from time to time by the Council shall be kept current and maintained in the office of the Clerk.

Section 4. Adjustment of excessive water or sewer bills.

(a) When it is discovered by a City employee that an unusually large amount of water has passed through a customer's water meter, the customer shall be notified either in person, by telephone or by letter. If the excessive usage is the result of a leak, the water bill will be adjusted for the month such leak was discovered and/or reported and the following month. Water wasted after that will be the sole responsibility of the customer. No more than two (2) bills will be adjusted in any year. For example: If a leak is discovered and/or reported during a billing for the month of June, that bill for June and the bill for July may be adjusted. No further adjustments may be made on that account until August of the following year. The method of adjustment shall be as follows: the customer will be required to pay the equivalent of his/her average bill plus one-half (1/2) of the difference between the excessive bill and his/her average bill. Customers served by the City Sewerage System will be required to pay a sewer service charge on the average amount on the adjusted bill only.

(b) If a water customer has an excessive bill and thinks it is caused by a faulty meter, he may, by making a deposit with the City, request that the meter be removed and checked. Said deposit to be set by the City Council. If the meter is found to be in error, the deposit will be refunded and the bill adjusted based on the percentage of error in the meter.
If the meter is not in error and not defective, the City will keep the deposit to cover expenses incurred in the investigation.

Section 5. Water Billing procedure.

(a) Each water meter shall generally be read once every month.

(b) Statements based upon such reading shall be rendered and all accounts shall be due and payable the first day of the month in which the bill is received. To avoid any confusion, the due date shall be printed on the bill.

(c) Customers who fail to pay the amount charged for either water or sewerage services by five (5) p.m. local time, the fifteenth (15th) day of the month in which the statement is received shall be charged a late penalty in the amount of five ($5.00) dollars. Customers who fail to pay the amount charged for either water or sewerage services by five (5) p.m. local time, the twenty-fifth (25th) day of the month in which the statement is received shall be charged an additional late penalty in the amount of fifteen ($15.00) dollars and water service to the premises shall be turned off.

(d) Delinquent accounts where the water has been turned-off shall not have such services restored until such delinquent account, including all penalties, has been paid in full.

Section 6. Deposit required.

(a) Each user of water supplied by the Marion water system shall deposit with City Water Department an amount determined by the Council as a water deposit. This amount shall remain on deposit in the City treasury as a guarantee for water and/or sewer rents. In the event that such customer fails to pay the water and/or sewer rents, then the City shall apply such deposit towards liquidation of amount due by said customer, and the water supply to his premises shall be disconnected and shall be resumed only after all water and/or sewer rents, including all penalties are paid in full.

(b) The deposit shall be made in the name of the owner or tenant of the premises to be supplied with water and/or sewer service. The owner or tenant must provide two (2) means of identification when requesting service. The monthly statement for water and/or sewer service shall be mailed to the person making the deposit and that person shall be responsible for payment of all water and/or sewer statements.

(c) The City will not accept a deposit or provide water and/or sewer service to any person, firm or corporation having a past due, unpaid water and/or sewer bill.

In addition, the City will not provide water and/or sewer service in the name of a different family member, relative or associate, when it is believed this procedure is being used to avoid paying a past due water and/or sewer bill.

Section 7. Cutting on water after discontinuance.

It shall be unlawful for any person to turn the water service on at any premises, when such service has been turned off by the City for unpaid water and/or sewer rents.

Each customer, from whose premises the supply of water has been discontinued, shall pay any and all water rents and penalties due, in accordance with section 5 (d).

Section 8. Must connect to water and sewer before occupying any building.

It shall be unlawful for any person to occupy any building of any kind unless the same is connected with the water and sewerage system of the City, provided connection is possible within a distance of three hundred feet.

Section 9. Unlawful to tamper with meter or any parts thereof.

It shall be unlawful for any person to remove, tamper or in any way meddle with any water meter box, rim cover thereto, or any part of such water meter box.

Section 10. Water for consumers outside of City.

Water may be furnished to consumers outside the City at such metered rates and upon such terms and conditions as may be approved by the Council. All connections as well as all meters, meter boxes and other equipment necessary for such connections, shall be installed by the City and shall be kept in repair by the City.

Section 11. City reserves the right to cut off water.

The City reserves the right to shut off the water in case of accident, or for the purpose of making connections, alterations or repairs, and it shall be the duty of the public works director to give notice to all consumers within the affected district at least one hour previous to the shutting off, except in case of emergency.

(a) In cases where the water is turned off for non-payment of water rent or other causes, or when, in the opinion of the public works director the turning off at the stop cock is not sufficient protection against further use of water, he may cause the water meter to be withdrawn.

Section 12. Only authorized persons to use water from public hydrants.

No person, except the public works director, or the chief of the fire department or other authorized persons, shall take water from any public hydrant, plug, street washer, drain cock, hose pipe or fountain, nor shall anyone in any way take water for private use, unless such person pays for the privilege and holds the usual permit from the City.

Section 13. Special use of water.

Applicants desiring attachments of larger diameter than prescribed by these rules and regulations for the purpose of controlling a large quantity of water in a short space of time, shall be required to pay, on demand, all extra cost of such attachment over that of ordinary service. They shall be required to pay meter rates.

(a) If proprietors of lumber yards, manufacturers, halls, stores, hotels, or public buildings are regular consumers of water to be used in case of fire, they shall be permitted to connect with the street main at their expense and will be allowed the use of water, for fire purposes only.

(b) In sprinkling streets in front of stores, each water taker must confine himself to the front of his premises.

(c) All sprinkler systems installed for fire protection, etc. must be metered.

(d) A contractor or builder desiring the use of water shall be required to make applications to the public works director and to secure a permit from him specifying the manner in which water shall be supplied.

(e) Any person desiring tanks to be filled from fire hydrants shall pay a fee set by the Council. Only qualified firemen shall fill said tanks; **provided**, that no fee will be charged fire departments authorized to fill fire trucks from hydrants for fire fighting and training purposes. The Marion Fire Department shall be notified prior to water being used from any fire hydrant by a firemen. A record shall be kept on the volume of water used by each fire department. Said record to be maintained by the Marion Fire Department and turned in to the water department at the end of each month.

Section 14. Emergency restrictions on use of water.

(a) The Mayor shall be authorized to declare a state of emergency whenever there is a shortage in the City water supply threatening the health and safety of the citizens of the City. The Mayor or his designee shall advise the local news media when such emergency exists.

(b) During such declared emergency, it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the water system of the City for any of the following purposes:

(1) To wash any automobile or other vehicle.

(2) To water or sprinkle any lawns, shrubs, yards, streets, sidewalks, or to use water for any similar purpose.

(3) To operate any air conditioning system which does not recover and reuse the water used in connection therewith; provided, this shall not apply to the use of water in connection with refrigeration for the preservation of perishable foods.

ARTICLE III.

SEWER SYSTEM

Section 1. Service contracts to conform with provisions.

All pertinent provisions of this chapter shall govern the terms and conditions of the contracts under which the City furnishes sewer service to any person, or whereby the City makes any sewer connections or performs any work or any kind in connection with the furnishing of sewer service.

Section 2. Mayor and Council or their agents shall supervise.

The sewerage system owned by the city shall be under the supervision of the Mayor and Council. The duty of enforcing full compliance with all rules and regulations governing all connections with the mains, shall be vested in the Council or their duly authorized agent.

Section 3. Sewer connections to be made within thirty days after mains are ready for use.

Within thirty days after the sewer main in any street is completed and ready for use, if a water main shall also have been installed in such street, the owner of any abutting lot having thereon improvements for human occupancy, shall cause a water closet and sink to be installed and to be connected with such sewer main. All other sewer facilities within such improvements, if any, are also to be connected with such sewer main; provided, however, that the owners of the premises shall be notified in writing by the City of the installation of such water main or the installation of such sanitary sewer, and they shall be allowed thirty days within which to make the required connection or connections.

Section 4. Connections to be made by City of under supervision of City.

The construction of lateral for the connection of the sewer on any lot with sewer in any street, as also the necessary excavation therefor shall be done by the city, or, if done by a licensed plumber, it shall be done under the supervision of the City.

Section 5. Applications for connections.

Every application for a sewer connection shall state the name of the owner of the lot, the name of the street on which the lot is situated, the number of the house, if there is one on the lot, or if not, a description of the location of the lot, the number and kind of connections desired and the character of surface of the abutting street. Every application shall be signed by the application, shall be accompanied by the proper fee for making the connections and shall be filed with the water department.

Section 6. Service pipe extensions.

No service pipe shall be allowed to run across lots, that is, from one lot to another, but it must be taken from the main in front of the premises or from some point adjacent thereto, unless specific permission is obtained from the public works director. The public works director or his agent shall have the power to extend service pipe to houses not located on main line. All additional expenses for such extensions shall be paid by owner of property.

Section 7. Right to enter premises.

Whenever it becomes necessary to enter any premises, stores or dwelling, for the purpose of inspecting water pipes, fixtures, meters, etc., the public works director or his agent may do so within reasonable hours; should the public works director or his agent be refused admittance, the supply of water shall be cut off until said examination is made and the required information is obtained, or until repairs and alterations are made.

Section 8. Sewer connections.

Sewer connections shall be made only by licensed plumbers subject to inspection by the public works director or his agent. If connection is made by the City there will be a charge as determined by the Council and filed in the clerk's office.

Section 9. Sewer connections to be made where openings provided.

Every sewer connection made directly to a main shall be made at the Y provided for the lot to be served; but if no such Y has been provided for such lot, then such connection may be made directly to the main at any convenient point.

Section 10. Separate connections required.

Every house or building abutting any sewer main, shall be separately and independently connected, except in those cases where laterals from such main have already been laid in macadam or improved streets, without provisions having been made for such house or building is on a macadam or improved street where laterals have not been laid, the connection may be made to any convenient lateral.

ARTICLE IV

SEWER USE ORDINANCE
(RESERVED)

ARTICLE V

WATER AND SEWER EXTENSION

Section 1. Application for and approval of extensions required.

(a) Any property owner, or owners, desiring water or sanitary sewer service shall apply in writing to the Council requesting the extension of water or sanitary sewer service or both. No request for the extension of services shall be considered unless submitted in writing.

(b) The applicant must submit as part of the written application such information plans or other data as required.

(c) When application is made for a water or sewer extension or both to serve an area or development that is planned as part of a larger development project or subdivision, all of which is not to be developed at the time application is made, the owner or owners shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.

(d) No extension to the water or sanitary sewer system of the City shall be made and no application shall be approved except in accordance with the policies established by the City Council.

Section 2. Council to establish policies.

The Council shall establish such policies and conditions for the extension of water and/or sewer lines as they deem necessary.

Adopted this the 5th day of February, 1991 to be effective June 30, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

WATER BILLING PROCEDURE - SEWER SERVICE: Upon a motion by Councilman Stronach, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following ordinance:

ORDINANCE
BILLING FOR SEWER SERVICE

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

Section 1. All persons, firms, and corporations receiving sewer services provided by the City of Marion shall be billed for such services based on the number of gallons of water purchased from the City water system as registered by the water meter serving such premises.

Section 2. Premises served by the City sewerage system but not by the City water system may be billed for sewer service by metering the volume of water produced by a private well for said premises or such premises may be billed at a flat rate set

by the City Council for sewer service for such premises.

Section 3. Due to problems and believed inaccuracies in some sewer measuring devices, the City of Marion will not bill for sewer services based on volumes registered on such sewer measuring devices.

Section 4. All ordinances in conflict with this ordinance are hereby repealed.

Section 5. This ordinance shall be in full force and effect upon adoption.

Adopted this the 5th day of February, 1991.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST: J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

REPORTS:

1. BILLING PROCEDURE FOR PRETREATMENT PERMITS: The City Manager stated that he had been looking into ways to charge the five industries involved in the pretreatment program for the charges involved. He stated that the cost was approximately twenty-five thousand dollars per year. He stated that a percentage basis would be the best way to bill the industries rather than a flat fee. He stated that he would draft a procedure and present it at the next meeting.

2. DELAY IN FIRE STATION CONSTRUCTION: The City Manager stated that he had talked with the Fire Chief and several of the firemen concerning the proposed one year delay in construction of the new fire station. He stated that he had also met with the department heads and discussed the cut-backs for the remainder of this year and next year.

3. SIDEWALK PROJECT - WEST MARION AREA: The City Manager stated that he had met with the Public Works Director and Mr. Tyler yesterday concerning curbing and sidewalks in West Marion. He stated that they had agreed construction in certain areas would begin next week.

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

A. Everette Clark
A. Everette Clark, Mayor

ATTEST: J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 19, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, February 19, 1991 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; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Freddie Killough, Director Downtown Business Association; Woody Killough, President Downtown Business Association; Lydia Carrington, News Reporter, The McDowell News; Cindy Bias, DeLiteFul FM.

GUESTS: Mr. Paul Hughes, Isothermal Planning & Development Commission; Mr. Clyde Hensley, Deep Cove Springs; Odie Cuthbertson, Rutherford Road; Justin Leach, Marion, NC; Billy Widener, Hillcrest Drive; Josh Moore, Westwood Village; Billy Ryan, Marion, NC; Mitchel Rumfelt, Turner Street; Luke Graham, Nebo; Jonathan Wilson, Fleming Ave; Emily Wilson, Fleming Ave; James Carver, Hickory Hill; Matt Suttles, Depot Street; Tom Eckenrod, East Court; Johnny Suttles, Depot Street; Ted Graham, Nebo; Jacob Gorecki, Hunter Drive; and Casey Mabry, 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 5, 1991 meeting.

INTRODUCTION - BOY SCOUT TROOP #210: Mayor Clark stated that several members of Boy Scout Troop #210 were present at the meeting as a requirement for a badge. The scouts introduced themselves and Mayor Clark thanked them for attending the meeting.

MRS. FREDDIE KILLOUGH - REPORT - DOWNTOWN BUSINESS ASSOCIATION: Mrs. Freddie Killough appeared before Council and reported that the Downtown Business Association had decided not to pursue the Small Town Main Street Program at this time. She stated that in addition, she had been contacted by Rutherfordton representatives which had been selected as a Main Street Town and they would like to come and see the downtown improvements.

REQUEST FOR WATER SERVICE - MR. CLYDE HENSLEY - COMMUNITY DEVELOPMENT BLOCK GRANT: The City Manager stated that Mr. Clyde Hensley owned a business which sells spring water. He stated that Mr. Hensley had requested a water line extension to his property to wash the bottles which he fills with spring water. The City Manager stated that Mr. Hensley would like for the City to apply for a Community Development Block Grant for this extension.

Mr. Paul Hughes stated that IPDC would complete the application for the grant. He stated that the grant was contingent on several items as follows:

1. That the business create jobs and that sixty percent of the jobs would be committed to persons of low or moderate income groups within two years of completion of the expansion.
2. That the City apply for the grant and administer and take responsibility for the grant.

Councilman Little asked how many jobs would be created and how many would be from low to moderate income groups. He was advised that there would be four jobs which was based on the amount of the funding and three of the jobs would have to be from low to moderate income persons.

Mayor Clark asked Mr. Hensley what his annual usage of water would be. Mr. Hensley stated that based on last years usage, it would be approximately one and one half to two million gallons.

Councilman Stronach asked if the City engineer had been consulted concerning the project. He was advised that he would be contacted if the grant was approved.

Councilman Stronach asked if the City would assume any liability with the treated City water being used to wash the bottles. Mr. Hensley stated that there would be no liability to the City, that it would be the same as connection with other businesses.

Councilman Ayers asked if the County could apply for the grant since the business was located outside the City Limits. He was advised that the City had to apply since they owned the water system.

Councilman Stronach asked if the grant would cover the total cost of the project. Mr. Hughes advised that if the project was approved as submitted with a six inch line running to the property, the grant would cover it. Mr. Hughes stated that if federal personnel felt that a four inch line was sufficient, the City would have to pay the difference between a six and four inch line.

Mayor Clark asked if this grant would have any effect on other City projects. He was advised that other projects would not be effected.
Mr. Hensley stated that for his use and the fact that only one property was above his residence, he felt that a six inch line was too large. The City Manager stated that the cost difference would only be the cost of the valves and pipe.

Councilman Ayers stated that he would not like to make a commitment until the Utility Committee had a chance to look at the operation.

Councilman Little agreed with Councilman Ayers and stated that Council was not trying to delay Mr. Hensley's project, however, it was normal procedure for the Utility Committee to look at projects of this nature and make a recommendation to Council.

The City Manager asked if the Utility Committee could look at the project, and in the meantime, advertise for the public hearing for the project at the next meeting. He stated that at that point, it would not be too late to decline to apply for the grant.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to run the advertisement in the local newspaper for a public hearing to be held at the next meeting concerning the project and for the Utility Committee to meet and make a recommendation to Council at that time.

Mr. Hughes stated that before he left, he would like to ask Council to ask for help from the League of Municipalities and Representative Robert Hunter concerning the western area of North Carolina not receiving its share of Community Development Block Grants.

REQUEST - YOUTH GROUP - USE OF COMMUNITY BUILDING: The City Manager stated that he had received a request from Mr. Preston Thomas of Pleasant Hill United Methodist Church for the youth group to use the Community Building on March 23 for a pancake breakfast and hamburger, hot-dog sale with the proceeds going back to the Church for purchase of hymnals. He stated that he had no problems with the request, but they had also stated that a craftsperson would be coming to the Community Building to sell crafts and a percentage of their profit would be donated to the church. He stated that this could be considered as profit making to the craftsperson and this was prohibited according to the rules.

A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to allow the Youth Group to use the Community Building if one hundred percent of the proceeds from the sale of crafts would go to the church for the purchase of hymnals.

REQUEST FOR REFUND - WATER SERVICE: The City Manager presented a memorandum from Ms. Libb Young of the Water Department stating that Mrs. Arthur Hamilton of 850 Fleming Avenue had been billed outside rates for water and sewer for the past six years and she should have been billed inside rates. The memorandum stated that she was due a refund of $476.00.

Councilman Stronach made a motion to refund Mrs. Hamilton $476.00 as requested by the water department. Councilman Cross seconded the motion. The vote was as follows: Ayes: Councilman Stronach, Councilman Cross, Councilman Tyler, and Councilman Ayers. Noes: Councilman Little.

Councilman Little stated that he voted against the motion because of the Statute of Limitations in other situations, not because he was opposed to the refund.

Councilman Ayers stated that Council may wish to set a limit on the number of years a refund could go back to. Councilman Cross stated that he felt refunds should be handled on an individual basis. There was a short discussion, but no action was taken.

REQUEST FOR REFUND - SEWER SERVICE: The City Manager presented a memorandum from Ms. Linda Suttles of the Water Department requesting a refund for Ms. Alice Strickland in the amount of $226.00. The memorandum stated that Ms. Strickland had been billed for sewer service and she was actually on a septic tank.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to approve the $226.00 sewer refund to Ms. Strickland as requested.

APPLICATION - PAWNBROKER LICENSE - GARY DEAN WEBB SR.: The City Manager stated that he had received an application for a Pawnbrokers License from Mr. Gary Dean Webb Sr. The proposed shop is to be located on North Main Street and be named The Five Lane Pawn Shop.

Police Chief Gilsdorf stated that according to the requirements of the Statute, the person making application must have never been convicted of a crime. He stated that the police department was not allowed to use the computer to get such reports. He stated that Mr. Webb personally went to the SBI and requested a statement. He stated that the SBI statement concluded that Mr. Webb had never been convicted of a crime in North Carolina. The Police Chief stated that he interpreted the statute to mean anywhere, however, since that information was not available, he would recommend that the application be approved.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to approve the application.

CHARGES FOR PRETREATMENT PROGRAM: The City Manager presented the following charges for the pretreatment program to Council. He stated that he would like for the charges to be in effect with the April 1991 billing. He stated that in addition, persons going and coming onto the program would effect the billing.

WASTEWATER PRETREATMENT PROGRAM CHARGES

Industry	Avg. Mo. Water Use	% of All	Mo. Pretreat. Charge
Marion Fabrics	3,382,467	57	$1,187.50
Galey & Lord	1,206,425	21	437.50
Willwear	484,900	8	166.67
Hospital	458,833	8	166.67
Drexel	366,617	6	125.00
	5,899,242	100	$2,083.34

Estimated cost of pretreatment cost to the City of Marion is $25,000.00 per year. ($2,083.34 X 12 months = $25,000).

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the charges as recommended effective with the April 1991 billing.

ORDINANCE - FEE SCHEDULE: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

ORDINANCE ESTABLISHING CERTAIN ADMINISTRATIVE, POLICE AND ZONING FEES

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

Section 1. That the following fees be set for the following items and/or services:

ADMINISTRATION FEES

1. Copies - All Departments (per page) .25

   If copies mailed, (actual cost but not less than) 1.50

2. Plastic Bags

   Trash (Approx. 20 per bundle) 1.00
   Leaf (Approx. 14 per bundle) 1.00

3. Return Check Fee 15.00

POLICE FEES

Miscellaneous Items

1. Copies of Reports 3.00

2. Records Check for Employment (Criminal Check) 5.00

3. Finger Printing 5.00

Permit Fees

1. Taxi Drivers (First Time) 10.00
   (Each Year) 10.00

2. Peddlers Administrative Fee
   (Per Week) 10.00
   (Annual) 50.00

   This charge does not include the privilege license fee.

3. Parade Permits 25.00

   Public Schools, Civic Clubs, Chamber of Commerce Downtown Business Association and Government sponsored parades excluded.

Ordinance Fees

1. Water Theft, Weed/Bush (Initial Call) 25.00
   (Follow Up Cost - Per Hour) 20.00

ZONING DEPARTMENT FEES

1. Zoning Books		5.00
2. Sign Ordinance		2.00
3. Subdivision Regulations		4.00
4. Wall Maps	Uncolored	5.00
	Colored	15.00
5. Small Maps		2.00

Section 2. All ordinances in conflict with this Ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect upon adoption.

ADOPTED this the 19th day of February, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

O-91-02-19-1

COMMUNITY BUILDING - CANCELLATION POLICY: The City Manager stated that due to the number of cancellations at a late notice for the Community Building, it had been suggested that a policy be established that persons using the building other than Civic Clubs pay the deposit within one week of use of the building and when calling on the telephone to reserve the building, they must pay for use of the building within twenty-four hours. The payment for use of the building would be non-refundable, however, due to circumstances such as inclement weather, problems with the building such as heating/cooling or water problems, the use would be rescheduled.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to approve the following policy: That deposits for use of the Community Building be paid one week prior to using the building and that persons renting the building by telephone should pay the price to use the building within twenty four hours to reserve the building.

PERSONNEL RESOLUTION - QUESTION OF RESIDENCE IN McDOWELL COUNTY: The City Manager stated that at this time, the Personnel Resolution contained a section that required all persons working for the City to live in McDowell County. He stated that a question had arisen concerning persons living over the county line getting to work faster than persons living in parts of the County.

Councilman Stronach stated that it would be reasonable to request that persons live in McDowell County because they would be contributing to the economy by purchasing items here and paying taxes here.

The City Manager stated that if an employee lived here, and moved outside they would have to quit their job, he asked if a qualified person applied for a position but owned a home outside the county, would they require them to sell their home before they went to work.

Councilman Cross asked if exceptions could be made so good employees would not be lost. He was advised that everyone had to have the same set of rules.

Councilman Ayers stated that the policy could be left as it is and for Council to vote on exceptions to the policy.

The Public Works Director stated that at this time, he had an employee who lived outside the County. When they were hired, they had been told that they had one year to move inside the County, he stated that they had approximately two months before the deadline was up. He stated that the person was a good employee, but as the policy was, would he have to relieve the person of his duties if they did not move?

The City Manager asked if the employee got to work on time, would it really matter where they lived. He stated that there was an in house policy that stated if an employee were late so many times, they would be terminated.

Councilman Stronach stated that he would like to table the matter. He stated that the employees knew the policy and if they did not agree with it, they could file a grievance.

Councilman Ayers asked what would happen to the persons living in McDowell County who worked in Asheville if they would not allow them to live here.

The discussion continued.

Councilman Little made a motion for the portion of the Personnel Resolution requiring persons working for the City live in McDowell County be repealed. The motion was seconded by Councilman Cross. The vote was as follows: Ayes: Councilman Little, Councilman Cross, Councilman Tyler, and Councilman Ayers. Noes: Councilman Stronach.

TREE BOARD - REQUEST FOR FUNDING: The City Manager presented a memorandum from Mr. Robert Parker of the Tree Board requesting $100.00 for prizes for the winners of the Arbor Day Program at Marion Elementary and for a plaque to display the names of the first place winners.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to fund the Tree Board $100.00 as requested for prizes and a plaque for the Arbor Day Celebration.

TREE BOARD - APPOINTMENTS: The City Manager presented a memorandum from Mr. Robert Parker of the Tree Board requesting that Ms. Sarah McCall and Mr. Wynn Jackson be appointed to the Tree Board to fill the vacancies left by Mr. Ralph Rutherford and Ms. Ann Hensley. The memorandum stated that the individuals had been contacted and agreed to serve.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to appoint Ms. Sarah McCall and Mr. Wynn Jackson to the Marion Tree Board.

RESOLUTION - STATE AND FEDERAL REGULATIONS AND MANDATES: The City Manager stated that he had received information concerning a new mandate for local governments concerning storm water. He stated that the City would have to purchase five permits at this time and the cost of the permits was estimated at twenty-five to thirty thousand dollars each. He stated that he had prepared the following resolution objecting to mandates that the state and federal government were passing to local governments.

The City Manager stated that in recent years, the following mandates had been approved that would effect the budget of local governments: Fair Labor Standards Act concerning fire and police overtime; Certification of Firemen; Mandated Police Retirement; Limits to projects that could be done in house; Wastewater Pretreatment; SARA; Subtitle D relating to landfills; Senate Bill 111 relating to solid waste; Drinking Water Standards; Underground Storage Tank Monitoring; Watershed Control - ten mile radius; and the Stormwater Regulations.

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

RESOLUTION

WHEREAS, the United States of America has a deficit in excess of three trillion dollars, and

WHEREAS, the State of North Carolina has an estimated shortfall in revenues of approximately one billion dollars, and

WHEREAS, the Congress of the United States and the Legislature of the State of North Carolina have passed certain laws establishing regulations and mandates to be placed on local government without funds to accomplish such tasks, and

WHEREAS, the local government is charged with the responsibility of raising taxes and/or other revenues to accomplish required federal and state mandates, and

WHEREAS, many towns and counties are experiencing financial problems in providing existing basic services to their citizens, and

WHEREAS, local citizens pay taxes to support the federal government, state government, and local government, and

WHEREAS, the economy in many areas is such that local governments are unable to pay for many of these required mandates.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Marion, North Carolina as follows:

Section 1. That the City Council of the City of Marion, North Carolina is charged with the responsibility of providing basic services to its citizens such as fire, police, sanitation, streets, and water/sewer services as a first priority.

Section 2. That all federal and state mandates to be accomplished during the year 1991 and subsequent years be delayed for at least two years unless fully funded by the federal and/or state government.

Section 3. That during this two year period, all regulations and mandates be fully reviewed to determine the cost verses the benefit.

Section 4. That local governments be given an opportunity for input into the cost benefit analysis during that two year period and that all future mandates be accompanied by a fiscal statement of cost verses benefit which has had appropriate local government input.

Section 5. That the North Carolina League of Municipalities contact member cities concerning their positions with regard to federal and/or state mandates and prepare a Resolution for adoption by all member cities opposed to such federal and state mandates with or without funding.

Section 6. That this Resolution be sent to : United States Senator Jesse Helms, United States Senator Terry Sanford, United States Congressman Charles Taylor,
United States Congressman Cass Ballenger, United States Congressman Tim Valentine, Governor Jim Martin, Lt. Governor Jim Garner, State Senate President Pro-Tem Henson Barnes, State Speaker of the House Dan Blue, State Representative Robert Hunter and the North Carolina League of Municipalities.

ADOPTED this the 19th day of February, 1991.

A. Everette Clark
Mayor A. Everette Clark

ATTEST:

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

R-91-02-19-01

The City Manager stated that a reporter from the League of Municipalities that worked for their publication Southern City had met with the Mayor and himself last week and would be publishing an article on the mandates and the problems with the economy in this area that had caused such a hardship.

CLINCHFIELD/FOREST ROAD SEWER LINE PROJECT - REQUEST FOR TIME EXTENSION: The City Manager presented a request for time extension on the Clinchfield/Forest Road Sewer Line project from Mr. Myron Steppe of Steppe Construction until April 15, 1991 due to the amount of rainfall in the last month.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to grant the time extension as requested.

ROCKY PASS WATER LINE EXTENSION - REPORT: The City Manager stated that it had been determined that City forces would not be able to cross the creek with the extension as had been anticipated. He stated that he had been in contact with the County Manager and he was to go ahead and contract with someone to put the line in and City forces could tie in when they reached that location.

SET DATE TO ADVERTISE THE TAX LIENS: The City Manager presented a memorandum to Council from Ms. Claudia Hill, Tax Collector with the amount of unpaid real estate taxes due at this time and requested that the tax liens be advertised on Wednesday, April 10, 1991.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to advertise the tax liens on Wednesday, April 10, 1991 as requested.

COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that there were several potholes in the area, especially in Oak Street where the sewer line project had been going on. He was advised that the contractor would come back and pave and the City would begin repairing the potholes as soon as asphalt was available.

EXECUTIVE SESSION - Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to go into Executive Session to discuss a possible property purchase and a possible legal matter.

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

unanimously to return to Regular Session.

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

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 5, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, March 5, 1991 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; Bill Hunnicutt, Chief Operator, Waste Treatment Plant; Bill Gilsdorf, Chief of Police; Freddie Killough, Director Downtown Business Association; Cindy Byas, News Reporter, WDLF Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Clyde Hensley, Deep Cove Springs; Mrs. Bridget Hensley, Deep Cove Springs; Mr. Ronnie Patel, Thrifty Court Motel; and Mr. Paul Hughes, Isothermal Planning & Development Commission.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Stronach, Council voted unanimously to approve the minutes of the February 19, 1991 meeting.

REQUEST TO PLACE BANNER - HOME BUILDERS ASSOCIATION: The City Manager presented a request from the Home Builders Association requesting that a banner be placed on Main Street from April 15 to April 29, 1991 for the "Better Living Show" to be held at the National Guard Armory on April 27 and 28.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to approve the request for the banner for the Home Builders Association April 15 through April 29.

THRIFTY COURT MOTEL - WATER/SEWER CONNECTION: The City Manager stated that Mr. Ronnie Patel of Thrifty Court Motel had experienced problems with his septic tank and had been told that he could not make repairs to the septic tank and must connect onto the City sewer system. He stated that Mr. Patel was not on the water system and in accordance with City Ordinances, he must have water service to connect to the sewer system. The cost for the connection is $1,250.00. The City Manager stated that Mr. Patel would like to make time payments on the connection.

The City Manager stated that he had contacted the League of Municipalities concerning the matter. He stated that there was authority for mandatory connection, to charge penalties and to place a lien on the property in the event the debt was not paid and the property was sold, however, it was not a lien on taxes. He stated that the statute was not clear concerning the amount of interest that could be charged for time payments and the League was to contact him at a later time with the information.

Councilman Stronach stated that until the information was received from the League, he felt that these matters could be handled on a one on one basis. He stated that it did bother him that at the time of the annexation, the persons being annexed had been told that they would not be forced to connect onto the system.

Mayor Clark stated that in Mr. Patel's situation, a private water line had burst causing the septic tank to overflow.

Mr. Patel stated that at this time, he did not have the money to pay the connection fee, he stated that in the summer, business would pick up and he would be able to pay. He stated that the plumbing in the motel would have to be redone because the lines were older and would not withstand the water pressure from a City connection.

Councilman Stronach asked Mr. Patel how long it would take to pay for the connection? Mr. Patel advised that it would be six months to one year.

Councilman Stronach stated that if the City allowed six months to pay, it would set a precedent for future requests.

Councilman Ayers asked if there were not other businesses connected to the well that served the motel. He was advised that two other businesses were served by the well serving the motel and that these persons would have to connect to the system also.

Mr. Patel asked if he could connect to the sewer system only and connect to the water system after he could have the plumbing redone. He was advised that he could not.

Councilman Ayers stated that he would like for everyone on the Five Lane to be connected to the system by May 1. He stated that the Health Department and State had pushed for the system to go in due to the numerous problems in the area and now, the Health Department had fallen down on their job by not requiring that these persons to connect before now.

Councilman Stronach stated that he agreed with Councilman Ayers, however, would they allow the persons to pay within the six months as discussed.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to require that all persons including both businesses and residences connect to the City of Marion water and sewer system by May 1, 1991, with time payments of six months allowed including interest as allowed by State Law and a lien on the property in the event it was sold.

CITIZENS COMPLAINT - HIGHLAND DRIVE: The City Manager stated that he had received a letter from citizens on Highland Drive concerning the condition of the road since the sewer line had been placed in the area. The letter stated that there were numerous potholes in the area and the manhole covers were above the road so you had to drive around them. Attached to the letter were several signatures of persons living in the area.

The City Manager stated that he had gone to the area with the Mayor and Public Works Director. He stated that the area was not in that bad of condition, that the potholes had mostly been patched and the manholes were placed so when the final resurfacing was done they would be flush with the pavement. He stated that at this time, asphalt was not available because of the cold weather to resurface the road.

Mayor Clark stated that a reduction in the contract had been for the City to move Highland Drive to the City Street System for maintenance and the contractor would not have to do the resurfacing. He stated that the work would be done when the asphalt was available and the City began their resurfacing.

The discussion continued. It was decided to send a letter to the residents of Highland Drive and explain that asphalt was not available at this time and the work would be done when the annual paving began.

PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT - DEEP COVE SPRINGS: The City Manager opened a Public Hearing for the purpose of discussion of the City's proposed application for a Community Development Block Grant for Deep Cove Springs.

The City Manager stated that he had received no objections to the proposed application by mail or telephone and no one was present at the meeting to object to the application.

Mr. Paul Hughes stated that the grant was being applied for in the economic development category which was available for persons to promote economic development and provide jobs in the area. He stated that he would like to go over the following points:

1. That the grant would be to the City of Marion and the City would be responsible for administering the grant.

2. That there would have to be dollar for dollar matching funds by a private investor, Mr. Hensley which would be for expansion of the facility and additional employment.

3. That the City would be required to hold another public hearing for the funding. He stated that it could be at the next meeting and the application could be ready at this time.

Mr. Hughes stated that he had checked to see if an engineering report was necessary. He stated that it was not required and the City could do their own estimates of cost, but he would advise they get input from the engineer to make sure the costs are in line.

Mayor Clark asked if there would be any cost to the City. He was advised that the only areas it would cost the City would be in the line size estimate or engineering costs. The City Manager stated that he felt it would be wise for the engineer to recommend the size line needed for the project and if the line was larger, the state would be more likely to approve the recommendation of the engineer.

Councilman Stronach stated that there would be a cost break for insurance for Deep Cove Springs if a larger line and hydrant was placed on the property.

The Public Works Director stated that the line size was questionable, however, the pressure analysis and other similar items could be done in house.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to proceed with the application.

APPOINTMENTS - PLANNING/ZONING BOARDS: The City Manager presented a memorandum to Council from Mrs. Lovina Smith, Zoning Administrator concerning appointments to the board.

The memorandum stated that the regular terms of Mr. Robert Watson and Mr. Wilton Carter had expired. The memorandum stated that should these persons not be reappointed, it had been recommended that Mrs. Susan Hollar and Mrs. Glynis Gilbert be moved from an alternate position to a regular position. Said terms would expire January 31, 1994.

The memorandum also stated that Mr. Pat Genet and Dr. Jim Peppers, had been suggested as possible alternates from the East Marion area and Mr. William Carson and Mr. Carl McKesson had been suggested as possible alternates from the West Marion area.

Councilman Stronach asked if there was a reason for the two persons not being reappointed. He was advised that one person did not attend the meetings regularly and the other person had seemed to loose interest in the meetings.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to appoint Mrs. Susan Hollar and Mrs. Glynis Gilbert as regular members of the Planning/Zoning Board. Said terms to expire January 31, 1994.

Mayor Clark asked when the appointments had been changed to represent certain areas. He was advised that appointments had not been changed, however, the board tried to represent the different areas whenever possible.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to appoint Mr. Pat Genet and Mr. Carl McKesson as alternate members of the Planning/Zoning Board if they agreed to serve.

ADDITION TO STREET SYSTEM - POWELL BILL - RESOLUTION: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

RESOLUTION

TRANSFER OF MAINTENANCE FOR CERTAIN STREETS FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO THE CITY OF MARION AND FROM THE CITY OF MARION TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

WHEREAS, an existing agreement between the City of Marion and the North Carolina Department of Transportation provides for the transfer of maintenance responsibility from the North Carolina Department of Transportation to the City of Marion for any state maintained road within the City Limits; and

WHEREAS, said agreement provides for the transfer of maintenance responsibility from the City of Marion to the North Carolina Department of

Transportation of certain roads maintained by the City of Marion and located within the City Limits upon mutual agreement.

NOW, THEREFORE, be it resolved by the City Council of the City of Marion, North Carolina as follows:

Section 1. The City of Marion does hereby request the North Carolina Department of Transportation to transfer the maintenance responsibilities from the North Carolina Department of Transportation to the City of Marion for the following described secondary roads which lie within the Marion City Limits:

	FROM	TO	LENGTH
(a) SR 1534 (Greenwood Dr.)	SR 1522	end of Maint.	0.16 mi.
(b) SR 1535 (Highland Dr.)	SR 1522	end of Maint.	0.33 mi.

Section 2. The City of Marion does hereby request the North Carolina Department of Transportation to accept the maintenance responsibilities for the following described secondary road which is located within the Marion City Limits:

	FROM	TO	LENGTH
(a) SR 1325 (Spaulding Dr.)	SR 1323	end of City Maint.	636 feet

Section 3. The City of Marion further requests that the North Carolina Department of Transportation transfer, assign and set over to the City of Marion all its rights and interest in and to any rights-of-way to the secondary roads named above, recorded or unrecorded including any claims or right to claim such rights-of-ways by prescription, adverse possession or other similar legal rights.

ADOPTED this the 5th day of March, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manger/Clerk

The City Manager stated that a portion of Oak Street between North McDowell Street and Highland Drive was not on the State System nor on the City System for maintenance. He stated that he would like to recommend that the City take over this portion of Oak Street for maintenance.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to place the portion of Oak Street between North McDowell Street and Highland Drive on the City Street System for maintenance.

CORPENING CREEK - EMERGENCY GENERATOR - REPORT FROM UTILITY COMMITTEE: The City Manager stated that the City had received a proposal from Duke Power Company to reduce the cost of power to the Corpening Creek Wastetreatment Plant if they could control the use of the generator. The proposal stated that they would call the City and ask them to turn on the generator and the time of operation would be no longer than twenty hours.

Mr. Bill Hunnicutt stated that he had contacted Covington Diesel concerning the maintenance for the generator if it were to be used in this way. He stated that he had not received the information, however, with the oil changes and monthly maintenance required at this time, there would not be a savings.

The City Manager stated that in recent disasters such as hurricane Hugo, it had been found that the generators did not hold up as they should for long periods of time.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to reject the proposal.

STORM WATER - CONTRACT WITH LEAGUE OF MUNICIPALITIES: The City Manager stated that he had received information from the League of Municipalities concerning a joint application for the NPDES Storm Water Permits. He stated that the cost to file the application was $750.00. He stated that he had polled the members of Council available and they had agreed to submit the application.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to authorize the City Manager to file the application.

The City Manager stated that he had received word today that the garage facility may be exempt from the permits because the water from there goes into the sewer system. He stated that the Clinchfield Wastetreatment Plant may be exempt as well because it had sheet water run off. He stated that the two landfills also have sheet water run off and could possibly be exempted.

HOUSE NUMBERS - 911 EMERGENCY - ORDINANCE: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
BUILDING AND HOUSE NUMBERS

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

Section 1. That all houses and other primary buildings located within the City Limits shall have displayed on the front of the house or building a number or numbers assigned by the City of Marion to be used with the name of the street in front of the house or building to designate the address of the property on which located.
Section 2. That said numbers shall be attached to the front of the house or building and shall be of a size sufficient to be seen from the street in front of the property.

Section 3. That the owner of the property shall be responsible for the installation of said house and/or building numbers.

Section 4. Any person, firm or corporation who shall violate or fail to comply with this ordinance shall be guilty of a 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 5. This ordinance shall be in full force and effect the 30th day of June, 1991.

ADOPTED this the 5th day of March, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager

The City Manager stated that some of the numbers were not consistent. He stated that the Zoning Administrator had suggested that when rental property changed hands, the numbers could be changed. It was also suggested that persons with non-consistent numbers that owned the property be given several years to make the change. No action was taken on these matters.

HUDGINS STREET - NEED FOR PROPER DESIGNATION - 911 EMERGENCY: Police Chief Gilsdorf stated that his officers had asked if Hudgins Street, Grayson Street and Wilemenia Street, all of which had been divided by the construction of the By-Pass could be designated as East and West. He stated that the streets dead ended on both sides and if an emergency call came in, and they went in the wrong direction, it took extra time to turn around and go the other way.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to designate East and West Wilhemenia Street with Sugar Hill Road being the dividing line of the road and to designate East and West Grayson Street and East and West Oak Street with the By-Pass being the dividing line of the road.

REPORTS:

1. LEAGUE ANNUAL MEETING: The City Manager stated that the League Annual Meeting would be held on April 3, 1991 at Waynesville in the morning and Valdese in the afternoon. Council decided to attend the meeting in Valdese.

2. FIRE DEPARTMENT - CERTIFICATION: The City Manager stated that two firemen had attended the first course for the new requirements on certification. He stated that Mr. Tom Milligan had scored 92 on the exam and Mr. Mack Laughridge had scored 98 on the exam.

3. CUTS TO LOCAL GOVERNMENT BUDGETS: The City Manager stated that he had received a bulletin from the League stating that the Governor had recommended that the reimbursements for March 15 be held until he had permission to use the Rainy Day Fund to cover the shortfall in the budget.

4. COUNCILMAN LITTLE - COMMENTS: 1. Councilman Little stated that he had talked to Mr. Barry Gouge at the Post Office and he wanted to come and talk to someone at the City about presorting the water bills for additional savings. 2. Councilman Little stated that he had been contacted by Mr. Frank Queen about a pumping station no longer operated by the City. He stated that Mr. Queen wanted to purchase the property and expand his driveway. The City Manager was directed to have the engineer look at the pumping station to see if the City would ever need it again.

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

March 19, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, March 19, 1991 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Robert Ayers.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Freddie Killough, Director, Downtown Business Association; Woody Killough, President, Downtown Business Association; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, WDLF Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Clyde Hensley, Deep Cove Springs; Ms. Judy Bohan, Isothermal Planning & Development Commission; and Mr. David Barnett, Marion, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the minutes of the March 5, 1991 meeting.

INTRODUCTION - BOY SCOUTS: Mayor Clark recognized Ms. Emily Wilson who works with the Boy Scouts. Ms. Wilson stated that she had brought Mr. Andrew Arrowood to the meeting to fulfill the requirement for his badge. Mayor Clark thanked the two for coming to the meeting.

ARBOR DAY PROCLAMATION: The City Manager presented the following proclamation to Council for Arbor Day:

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 22, 1991 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 15TH DAY OF MARCH, 1991.

A. Everette Clark, Mayor

KEEP AMERICA BEAUTIFUL MONTH: Ms. Freddie Killough stated that April had been designated as Keep America Beautiful, with April 6 being designated as a County-wide Clean Up day. She stated that April 22 would be designated as Earth Day. Ms. Killough stated that she would like to have a proclamation designating April 6 as Clean Up Day.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the proclamation as prepared.

KEEP AMERICA BEAUTIFUL MONTH 1991 PROCLAMATION

WHEREAS, The month of April is the annual National Keep America Beautiful Month; and

WHEREAS, litter in Marion and McDowell County detracts from economy, pride, and natural beauty of the area; and

WHEREAS, an effective approach to litter reduction and beautification requires the involvement of citizens and local governments; and

WHEREAS, positive attitudes are needed to promote a public will to improve the appearance of our roadsides and properties; and

WHEREAS, the joint promotion by the McDowell Clean County System and the Marion Downtown Business Association of a specific clean-up day of first Saturday in April to provide a focus on property clean-up and community involvement; and

NOW THEREFORE, I, A. Everette Clark, Mayor of the City of Marion, North Carolina, do hereby designate the month of April, 1991, in the City of Marion, North Carolina as . . .

KEEP AMERICA BEAUTIFUL MONTH

and April 6, 1991 as . . .

UP TOWN, DOWN TOWN, ALL AROUND TOWN SPRING CLEANING DAY

and call upon the people of the City of Marion, North Carolina, to recognize and participate in this day of clean-up.

March 15, 1991

A. Everette Clark, Mayor

CITIZEN REQUEST - TO OPEN ALLEY - OFF WEST HENDERSON STREET:
Mr. Ronnie Barnett appeared before Council and requested that a twenty foot alley off West Henderson Street and Hudgins Street be opened. He stated that he would be willing to bear the expenses if Council would permit him to open the alley. He

stated that he had purchased the property and would like to open a funeral home in the area to serve the West Marion Community.

The City Manager asked if Mt. Ida Lodge which is located adjacent to the property would allow parking access to Mr. Barnett's property. He was advised that they would, however, he would like to have the alley opened so he could have a circle drive around the facility.

Councilman Stronach asked if the zoning of the area permitted a funeral home. He was advised that the property was zoned R-2, General Residential which allowed funeral homes.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to allow Mr. Barnett to open the alley at his expense.

MACA - REQUEST FOR "SANDWICH BOARD" SIGN: The City Manager presented a letter from MACA requesting permission to place a "Sandwich Board" type sign at their entrance recessed area and on the brick portion of the sidewalk. The board would announce the hours of the gallery and the current exhibit.

Mayor Clark stated such a sign would open the door for similar requests. Councilman Little stated that he felt the same way. He stated that Rutherfordton allowed the signs and it did not keep the area neat looking.

The discussion continued. Those members of Council present agreed to request that MACA use the windows of their building or put a sign above the sidewalk which would be visible on both sides of the street provided it was hung eight feet above the sidewalk.

PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT - DEEP COVE SPRINGS: The City Manager opened a Public Hearing for the purpose of discussing a Community Development Block Grant for Deep Cove Springs. No one was present concerning the hearing. The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to proceed with filing the application.

PUBLIC HEARING - REZONING THE SOUTHWEST CORNER OF LOGAN AND WEST HENDERSON STREET: The City Manager opened a Public Hearing for the purpose of discussing rezoning of the southwest corner of Logan and West Henderson Streets. No one was present concerning the Public Hearing.

The City Manager stated that it had been requested that the property located on the southwest corner of Logan and Henderson Streets be rezoned from C-1 Central Business to C-2, General Business. The request had been presented to the Planning/Zoning Board and they had unanimously agreed to rezone the property C-2.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to accept the recommendation of the Planning/Zoning Board and rezone the property C-2, General Business.

The City Manager stated that the property would be used as a warehouse facility. He stated that C-2 required off street parking. A short discussion followed. Council agreed to remind the owners of the property that the occupants of the building must utilize the parking around the building rather than the public parking lot adjacent to the property.

PLANNING/ZONING BOARD - APPOINT ONE MEMBER: The City Manager presented a memorandum to Council from Mrs. Lovina Smith stating that Mr. Carl McKesson had declined to serve as an alternate on the Planning/Zoning Board.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to appoint Mr. William Carson Jr. as an alternate to the Planning/Zoning Board if he was willing to serve. Said term would expire January 31, 1992.

REPORT - UTILITY COMMITTEE - SEWER CONNECTIONS - FIVE LANE: The City Manager stated that the Utility Committee had met concerning the required sewer connections on the Five Lane. He stated that several of the properties where for sale or under option and these persons did not wish to make the connections in the event the property was sold. The City Manager stated that rather than bring these items to Council, he would like to request that the Utility Committee be given permission to make such adjustments on an individual basis.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to allow the Utility Committee to make adjustments when they felt necessary to the ordinance requiring persons connect to

the sewer system on the Five Lane.

COUNCILMAN LITTLE - COMMENTS: Councilman Little stated that he would like to follow up on his request concerning the City selling the small pumping station no longer in use by the City. The City Manager stated that he had talked to the Public Works Director and the Chief Operator of the Waste Treatment Plant concerning the matter, however, he had not been able to talk to the attorney. He stated that the property would have to be advertised for bids and the City's liability in the pumping station would have to be established before a recommendation could be made.

BUDGET PROBLEMS - DISCUSSION: The City Manager stated that he had the financial statements ending February 28, 1991. He stated that the revenues collected in the water and sewer account was approximately 51% and should be 66.6% by this time. He stated that the main reason for the decrease was the closing of Cross Mill.

The City Manager stated that funds would have to be transferred from the General Fund to cover losses in the Water and Sewer Fund. He stated that the situation looked good this year compared to what would happen next year when there would be no appropriations for fund balance. He stated that next year all he would be planning to do would be fix water leaks and patch potholes, there would be no special projects or capital outlays.

The discussion continued.

Councilman Stronach stated that he would like for the area City officials to meet with the State representatives and discuss the problems.

COMMUNITY BUILDING - REQUEST TO USE BASEMENT: The City Manager presented a request from Mr. Rodney Sutton, Visiting Artist from McDowell Technical Community College requesting the use of the Basement of the Community Building on Monday nights beginning April 1 through May for dance classes.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to allow Mr. Sutton to use the building.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

April 2, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, April 2, 1991 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Freddie Killough, Director, Downtown Business Association; Woody Killough, President, Downtown Business Association; Van McKinney, News Reporter, W.B.R.M. Radio; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. & Mrs. D.A. Grayson, Nebo, North Carolina; Ms. Kainen Gibson, Lady Titans; Ms. Tracy Silver, Lady Titans; Ms. Amber Mabe, Lady Titans; Ms. Stephanie Young, Lady Titans; Ms. Terra Pittman, Lady Titans; Ms. Marcie Lewis, Lady Titans; Ms. Jennifer Watring, Lady Titans; Ms. Missy Dyer, Lady Titans; Ms. Nerissa Brewer, Lady Titans; Ms. Cristen Howard, Lady Titans; Ms. Tiffany Stacey,

Lady Titans; Ms. Shawna Pittman, Lady Titans; Ms. Tammy McEntire, Lady Titans; Mr. Mike Silver, Coach for Lady Titans; and Mr. Allen Tate, Coach, Lady Titans.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council voted unanimously to approve the minutes of the March 19, 1991 meeting.

MR. D. A. GRAYSON - APPRECIATION GIFT/DONATION: Mr. D.A. Grayson appeared before Council and presented a check in the amount of $3,333.34 as a donation in appreciation for the water line extension to Nebo School. Mr. Grayson stated that he was donating a total of $10,000 to McDowell County, The City of Marion and The McDowell County School Board. He stated that he had graduated from Nebo School and would like to show his appreciation to the three boards for their work in getting a badly needed water line to the area.

Mr. Grayson stated that he would like to have a day of celebration in McDowell County the day the water line reaches the school.

Mayor Clark thanked Mr. Grayson and his wife for the donation to the City.

RESOLUTION - LADY TITANS: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following Resolution:

RESOLUTION HONORING THE 1990-91 McDOWELL HIGH SCHOOL GIRLS VARSITY BASKETBALL TEAM

WHEREAS, the McDowell High School girls varsity basketball team, known as the Lady Titans, has just completed the 1990-91 season with a sparkling 29-1 record; and

WHEREAS, in the course of that season they have won the regular season and tournament championships of the Northwestern 4-A Conference; have won the North Carolina High School Athletic Association West Region 4-A championship; have recorded the longest winning streak in school history; and, by defeating Pinecrest High School by a score of 53-43 in the North Carolina High School Athletic Association 4-A girls championship game, have won the first team state championship in the history of McDowell High School sports;

AND WHEREAS, the Lady Titans have not only proved that McDowell County's students can compete successfully at the highest level of competition, but have done so with dedication, courage, dignity, and style on and off the court, and have served as an inspiration to our entire community,

NOW, THEREFORE, be it resolved that the City of Marion salutes the 1990-91 Lady Titans, their coach, Mike Silver, and all his staff, for a magnificent season which has made us all proud.

ADOPTED this the 2nd day of April, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

Robert Ayers, Mayor Pro-Tem

John Cross, Councilman

Steve Little, Councilman

Angus Stronach, Councilman

Joe Tyler, Councilman

Mayor Clark presented each member of the team and the coaches of the Lady Titans

with a copy of the Resolution. He stated that the City had passed the Resolution in their honor and it would be a permanent record of the City and would be recorded in the Minute Book along with each member's name.

BALDWIN AVENUE LIFT STATION: The City Manager stated that it had been determined that the City no longer needed the sewer lift station on Baldwin Avenue.

Mayor Clark asked if bids for the sale of the property would have to be taken. He was advised that the property would have to be declared surplus to the needs of the City and bids would have to be taken.

Councilman Stronach stated that he would like to have an appraisal of the property.

The discussion continued. The City Manager was directed to proceed with getting a description or map of the property.

TAX COLLECTOR REPORT - REQUEST FOR FUNDS: The City Manager presented a memorandum from Ms. Claudia Hill, Tax Collector, requesting the following refunds:

1. Ms. Ruby Hennessee - She lives outside the City Limits, however, she was billed for property she also owns located outside the City Limits. She is requesting a refund in the amount of $54.40.

2. Kwik Kar Wash - This business located inside the City Limits was billed twice due to a computer error on the Municipal Tax District charge. They are requesting a refund in the amount of $259.51.

3. Ms. Hilda Clevenger - She purchased property from the R.J. Morris Trustee in July 1990 and paid the taxes in full on this date. The property value was decreased by the County Board of Equalization and Review. She is requesting a refund in the amount of $225.70.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to grant the refunds as requested.

TAX COLLECTIONS - SMALL OVERPAYMENTS/UNDERPAYMENTS -RESOLUTION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following resolution:

RESOLUTION
TAX UNDERPAYMENTS AND OVERPAYMENTS

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

Section 1. The City Tax Collector shall be permitted to treat small underpayments of taxes as fully paid and to not refund small overpayments of taxes unless the taxpayer requests a refund before the end of the fiscal year in which the small overpayment is made. A "small underpayment" is a payment made, other than in person, that is no more than one dollar ($1.00) less than the taxes due on a tax receipt. A "small overpayment" is a payment made, other than in person, that is no more than one dollar ($1.00) greater than the taxes due on a tax receipt.

Section 2. The tax collector shall be required to keep records of all underpayments and overpayments of taxes by receipt number and mount and shall report these payments to the governing body as part of his settlement.

Section 3. This resolution shall apply to taxes levied for all previous years.

Section 4. This resolution shall continue in effect until repealed or amended by the Marion City Council.

Section 5. This resolution shall be in full force and effect upon its adoption.

ADOPTED this the 2nd day of April, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE MANDATED FIRE INSPECTIONS - CHARGES - DISCUSSION: The city Manager stated

that three persons in the Marion Fire Department qualified to do fire inspections. He stated that due to state mandates, beginning next July, every building inside the City Limits except single family dwellings must be inspected annually.

The City Manager suggested that owners of buildings required to be inspected pay the total cost for the City to make the inspection. The Mayor stated that all bills for inspections should have printed on the bill who requires the inspection and who to call if there are objections.

Councilman Stronach asked if industries were not required to have State inspections and if so, could something not be worked out to use the same inspection.

Mayor Clark stated that the mandate would take a considerable amount of time and he felt that they should talk with the Governor and Lt. Governor about the matter.

The City Manager stated that he had talked with Fire Chief Edwards and a very conservative figure for the cost for the inspections would be $6,000.00 per year.

Councilman Cross stated that he felt that it would be reasonable to charge those persons effected directly and it would also call attention to the mandates.

Councilman Stronach asked how many buildings would have to be inspected. He was advised that there were around six hundred businesses, apartments and industries that may have to be inspected.

The discussion continued. No action was taken.

REPORTS:

1. POSSIBLE PROPERTY ACQUISITION - DISCUSSION: The City Manager stated that he had received word that First Federal Savings Bank office building and adjacent parking lot on South Main street had been appraised at $217,000.00.

A discussion followed, but no action was taken.

2. STEPPE CONSTRUCTION - REQUEST FOR INCREASE IN CONTRACT: The City Manager stated that he had received a request from Steppe Construction for an increase in the amount of $8,000.00. The reason for the request was that they had planned to patch the potholes and work area, however, the State did not approve the patching and stated that the pavement must be overlayed resulting in the cost increase.

3. INVITATION - COMMUNITY MEETING - WEST MARION AREA: The City Manager stated that he had received a call from Mrs. Tillie Twitty inviting the Mayor, City Council, City Manager and Police Chief to a meeting on Saturday, May 4, 1991 at 12:00 P.M. at Mt. Morriah Baptist Church. The City Manager stated that he had understood that the County Commissioners and the Sheriff had also been invited.

Some members indicated that they would be unable to attend the meeting due to conflicts.

Councilman Cross stated that he would like to invite the persons to the next Joint Meeting. The City Manager stated that the next meeting would be April 18, 1991 at 7:00 P.M. in the City Council Chamber.

Mayor Clark stated that he would like for the City Manager to send a letter to Mrs. Twitty inviting them to the next Joint Meeting.

Councilman Stronach stated that he felt that if a citizen had a complaint, they should come to a Council meeting rather than calling their own meeting. He said he felt it would be the proper thing to do by inviting them to the Joint Meeting.

The discussion continued. The City Manager was directed to write Mrs. Twitty a letter and invite her to the Joint Meeting.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

April 16, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, April 16, 1991 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Joe Tyler.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Glen Sherlin, Public Works Director; Larry Ballard, Utility Line Superintendent; Cindy Byas, News Reporter, WDLF Radio; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Mr. David Logan, Marion, North Carolina; Mr. Jonathan Borders, Marion, North Carolina; Ms. Gwendolyn Williams, High Street; Mr. Thurman Beam, Wilhemenia Street; Mr. Leo Logan, Grayson Street; Mrs. Alice Logan, Grayson Street; Ms. Julia Whitesides, Grayson Street; Ms. Lillian Williams, Grayson Street; Mr. Carl Ferguson, California Avenue; Mr. Billy Martin, Holly Hill Drive; Ms. Tillie Twitty, Marion.

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 April 2, 1991 meeting.

WEST MARION RESIDENTS - CONCERNS: Ms. Tillie Twitty stated that the citizens of the West Marion area would like to thank the City Council for the work that had been done in West Marion to elevate the water problems. She stated that members of the community had met and formed a Clean-Up Committee as follows: Carl Ferguson, Jonathan Borders, Marvin Swepson, Fred Hooper, Don Lindsay, Melvin Staten, David Logan, Maurice Conley, Governor Conley, and Ms. Gail Williams. She stated that the Committee had made a lot of progress and the work was to be continued.

Ms. Twitty stated that the residents would like for the police officers to be more visible in the area. She stated that a lot of out of town cars were "cruising" the area and causing problems. She stated that the citizens in the area were fully supportive of the Police Department.

Ms. Twitty stated that if the City would like to donate any type of tools for help with the clean up, it would be appreciated.

Mayor Clark stated that he had been to West Marion and the work that had been done greatly improved the area. He stated that he would like to express his appreciation to the Committee for their efforts. He stated that the City wanted to work with the community and help with their efforts.

Mr. Carl Ferguson stated that he was concerned about the noise in the area. He stated that he would like to see a cruising law passed, more license checks, and more patrolling of the area. Mayor Clark stated that the police department was aware of the problem and realized the concern of the neighborhood. He stated that later on the agenda were two ordinances, no parking in the area and an ordinance concerning alcoholic consumption which would greatly help the situation. He stated that the City wished to keep working on the situation and hoped that the problem would be worked out.

Mr. Jonathan Logan stated that he would like to see work done on the road located on the north side of Mt. Morriah Baptist Church. He stated that the road was unpaved and created a mess when the weather was bad. The City Manager stated that the road was the result of a property exchange between the City and the Church. He stated that there was a problem with paving the road because a house is located in the right-of-way. He stated that the road could be maintained up to that point, but he did not know what could be done about the house.

Mr. Leo Logan stated that he would like to see lower speed limits in the area. He stated that especially around Oak Street and Ridley Street, persons were driving too fast. It was agreed to draft new speed limits for the area.

Mr. Carl Furgeson asked how soon they could expect more police department activities. He was advised that traffic checks could be initiated immediately, but could not be run continuously. The Mayor stated that the new ordinances to be passed later tonight, would be of great benefit in the area. He stated that they would elevate frustration because there would be laws where there were none before, especially concerning consumption of alcohol.

Mayor Clark stated that the weekends were the worst times for problems in the area. Councilman Little stated that he would like to see a traffic check this weekend since the problems worsen in the spring and summer, this might help "nip the problem in the bud".

Councilman Ayers asked if a noise ordinance could be passed concerning the music in the area. He was advised that a nearby town had passed an ordinance that if the music could be heard with a human ear within fifty feet of a car or dwelling, they were in violation. Councilman Little stated that if such an ordinance were drafted to watch out for adverbs which could create loopholes for attorneys and to keep it as simple as it could be. Councilman Stronach stated that he would like to refer such an ordinance to the Police Committee for consideration.

Mr. Ferguson stated that he would hate to suggest such a thing, but would there be any way a curfew could be set. He was advised that it would have to be City wide and during an emergency situation.

Councilman Stronach stated that he would like to address the question concerning tools to be used for the clean up efforts of the community. He stated that he was sure that something could be worked out on a check out basis to be used during the weekends. He was advised that they would prefer to have their own tools.

Mr. Ferguson asked if there would be a possibility to get some of the Community Service Workers to help with the clean up. He was advised to get in touch with Ms. Patty Turner at the Courthouse.

Ms. Twitty stated that she would like to state that the persons present at the meeting represented a majority of persons from the West Marion Community who had met formally and wished for these concerns to be addressed to Council.

Mayor Clark thanked the citizens for coming to the meeting.

REQUEST FOR BANNER - McDONELL HIGH SCHOOL - MS. KAYE SINCLAIR - MAY 6 - MAY 13, 1991: The City Manager stated that Ms. Kaye Sinclair had contacted him concerning placement of a banner across Main Street from May 6 - May 13, 1991 for the High School Play.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to approve the request.

CIVIC EDUCATION PROJECT - NORTH CAROLINA CITY/COUNTY MANAGERS ASSOCIATION: The City Manager stated that the North Carolina City/County Manager's Association would like to sponsor the placement of a twelve minute video, a textbook and instructional videos to ninth graders informing them about the role of Local Government. He stated that at this time, there was little educational materials in the school systems about local government.

The City Manager stated that before textbooks can be provided, the Association would like to have a contribution from the cities and counties based on five cents per capita. He stated that the City's contribution would be $245.65 and could be spread over a two year period.

Upon a motion by Councilman Little, seconded by Councilman Stronach, those members of Council present voted unanimously to send a letter to the Association and participate in the project.

MS. EDITH POTEAT - FALL ON SIDEWALK - REQUEST CITY PAY EXPENSES: The City Manager presented a Police Report concerning Ms. Edith Poteat of 1521 Clark Street, which stated that she stumbled and fell due to a raised portion of sidewalk on State Street close to Capital Hills Apartments. Ms. Poteat indicated that she would like for the City to pay for the medical expenses incurred as a result of the fall. The City Manager stated that he had advised Ms. Poteat that the City did not pay medical expenses unless there was direct negligence on the part of the City, however, he would present the report to Council.

Councilman Ayers stated that several years ago, Mr. E.P. Dameron, City Attorney had advised Council that in cases such as this, individuals have a responsibility to watch where they were going and the City would not have any responsibility due to falls. He stated that he did not see that the City should have to pay medical expenses. The other members of Council were in agreement.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to deny the request for payment of medical bills.

MS. MARY JOHNSON - FALL ON SIDEWALK - REQUEST TO PAY MEDICAL EXPENSES: The City Manager presented a Police Report from Ms. Mary Johnson of 101 Valley Street, which stated that she stumbled and fell on a raised portion of Court Street. The City Manager stated that he had talked to Ms. Johnson by telephone and she stated that she had not been to the doctor or the hospital, but if she were to have any medical expenses relating to the fall, she would like for the City to pay for

them. The City Manager stated that he advised her that the City did not pay medical expenses for falls on sidewalks unless there was direct negligence on the part of the City, however, he would present the report to Council.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those members of Council present voted unanimously to deny the request.

OAK GROVE CEMETERY - CONTRACT - FORMAL APPROVAL: The City Manager stated that bids had been taken for the maintenance of Oak Grove Cemetery. He stated that the low bid of ServiceMaster in the amount of $3,500.00 per month had been accepted. He stated that the contract for the work needed to be approved by Council.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to approve the following contract:

AGREEMENT
MOWING OF OAK GROVE CEMETERY

THIS CONTRACT, in two (2) copies, made and entered into this 11th day of April, 1991, by and between the City of Marion, North Carolina hereinafter designated as the OWNER, and ServiceMaster Landscape and Lawn Maintenance of Marion, County of McDowell, State of North Carolina, hereinafter designated as the CONTRACTOR.

WITNESSETH: That the parties hereto, each in consideration of the Agreements on the part of the other herein contained, have mutually agreed and hereby mutually agree, the Owner of itself and its successors and the Contractor for itself, himself, or themselves and its successors, his or their executors, administrator and assigns as follows:

Article 1. DESCRIPTION: Under this Agreement and Contract the Contractor shall:

1. Mow all grassed areas in the Oak Grove Cemetery located on Rutherfordton Road and bounded on south by Rutherfordton Road, on the east by a drainage ditch, on the west by Georgia Avenue, and on the North by Southern Railroad tracks, at least once each week, weather permitting, during the contract period.

2. Vacuum and/or rake all mowed areas the same day each cutting.

3. Each cutting shall include edging of all roadways, walkways, streets bordering property, parking areas, patios, shrubbery and planting beds. Edging to be done with an appropriate edging machine, and/or weedeater machine.

4. All cuttings and other debris will be removed from the premises daily.

5. Grass around trees and posts, under fences, around dumpsters, and under PVC collars around trees, etc., will be trimmed as needed.

Article 2. CONDITIONS: The Contractor agrees to the following conditions:

1. All mowing is to stop during funeral services.

2. No work on Sundays.

3. No chemicals are to be used unless approved by the City in advance of any use.

4. To report any damage to markers, grave stones, curbing or other damages to property in the Cemetery to the Public Works Director and the Marion Police Department as soon as possible after the incident or discovery.

5. To provide proof or insurance to cover any damage to grave markers, curbing, etc., and to protect the owner.

6. This contract may be canceled by the city if the Oak Grove Cemetery is not maintained to the expectation of the City and complaints from owners of lots become excessive. In the event the contract is canceled by the City, the City shall pay the Contractor for all work accomplished to the date of cancellation.

Article 3. CONTRACT TERM: This Agreement and Contract shall be for the period of time from April 1, 1991 through and including September 30, 1991.

Article 4. PAYMENT: The City shall pay the Contractor for all work accomplished, as contained in this agreement, on or before the 15th day of the month following the month in which the work is accomplished. Said payment to be in the amount of three thousand, five hundred dollars per month ($3,500). The first payment shall be made on or before the 15th day of May, 1991 and the last payment on or before the 15th day of October, 1991.

IN WITNESS WHEREOF, the parties to this Agreement have hereunto set their hand and seals and have executed this Agreement, in two copies the day and year first above written.

(Seal) By:

Contractor

(Seal) By:

Owner

FIRE INSPECTIONS - MANDATED? The City Manager stated that he had received a call from Mr. Dascheil Propes, Chairman, NC Code Officials Qualification Board concerning the mandated fire inspections. He stated that Mr. Propes had advised that there were no mandated fire inspections required by the State other than schools and day care centers. He advised that other inspections would be required by the governing board. He stated that he had received a memorandum from Mr. Propes which stated that the inspections were mandated, but it did not specifically list which inspections.

The City Manager provided Council with a list of approximately thirty six facilities currently inspected by the fire department which did not include businesses in the downtown area, special requests by Social Services or owners.

The City Manager stated that he had asked the Fire Chief to compile a listing of facilities or buildings which should be inspected. He stated that he felt that these persons should be charged for the inspection.

A discussion followed. Councilman Stronach stated that he was opposed to fees for the inspections. The City Manager was directed to write a letter to Mr. Propes stating that the understanding of the City was that there is no mandated inspection of buildings or facilities other than schools and day care centers and if the understanding was incorrect to please notify the City.

BALDWIN AVENUE PUMP STATION: The City Manager stated that the City could proceed with auction of the property or sell of the property by sealed bids once it had been declared as surplus.

A short discussion followed.

Councilman Stronach made a motion to proceed with the auction process.

Councilman Little asked to abstain from the voting because one of his clients was interested in the property.

The motion died due a lack of a second. The City Manager was directed to prepare the necessary paperwork.

RESOLUTION - HB2377 FUNDS: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Resolution:

CITY OF MARION
RESOLUTION CONCERNING HB2377 FUNDS

WHEREAS, the intangibles tax is levied to provide revenues for local governments, and the state of North Carolina levies and collects this tax for uniformity of rates and efficiency of collection:

WHEREAS, before 1949, municipalities levied local franchise taxes on the sale of electricity, natural gas and telephone sales within each municipality, and the state franchise tax replaced these local taxes with the agreement that municipalities would receive the proceeds from sales within the municipal corporate areas;

WHEREAS, the General Assembly raised the beer and wine tax in 1947 with a share of proceeds from this tax to be distributed to local governments that allow beer and wine sales within their boundaries;

WHEREAS, prior to the 1990-91 fiscal year, proceeds from the above three taxes were distributed to local governments in accordance with state statutes and

were not subject to annual appropriation;

WHEREAS, the General Assembly passed in 1990 House Bill 2377 making these long-standing local revenues subject to annual appropriations because of the need to balance the state's balance sheet on an accrual basis; and

WHEREAS, the General Assembly, in levying these taxes, designated all or a substantial portion of the proceeds to be local revenues;

NOW THEREFORE BE IT RESOLVED that the municipality of Marion, North Carolina respectfully requests that the General Assembly restore the automatic, statutory distribution of these important local revenues, thereby eliminating the necessity of the General Assembly to make an annual appropriation to return these local revenues to local governments.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

RESOLUTION - AMENDMENTS TO PERSONNEL RESOLUTION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following Resolution:

A RESOLUTION AMENDING THE RESOLUTION ENTITLED PERSONNEL RESOLUTION - CITY OF MARION

BE IT RESOLVED by the City Council of the City of Marion, that the Resolution entitled Personnel Resolution -City of Marion, adopted on March 7, 1990, be amended as follows:

Section 1. That **ARTICLE V. CONDITIONS OF EMPLOYMENT, Section 5. LIMITATION OF EMPLOYMENT OF RELATIVES (Nepotism), Number 1.** be deleted in its entirety and replaced with the following:

1. Two or more members of the immediate family shall not be employed in the same department at the same time or in the same building where there would be daily routine contact.

Section 2. That **ARTICLE V. CONDITIONS OF EMPLOYMENT, SECTION 8. CERTIFICATION** be added as follows:

State requirements are making certification a part of some job descriptions. The following is the method the City of Marion will use to deal with certification in the areas of waste water treatment and water filtration. This method may be applied to other situations where certification becomes mandatory.

For an individual to be hired as an Operator for either the water filter plant or the waste treatment plant he/she must meet the following criteria:

1. Have a valid North Carolina drivers license

2. Have a high school diploma or equivalent GED

To retain employment with the City of Marion as an Operator at one of the above plants, it will be necessary for the individual to be certified by written examination at a Class C level for the water filter plant or a Grade I level at the waste treatment plant.

If the employee is unable to be certified upon the initial testing for a Grade I or Class C, he/she may apply for a transfer to another department - providing:

1. Satisfactory work and attendance records have been maintained.

2. An open position exists in the department.

3. The department head approves the transfer.

Expenses: The City will pay expenses to approved schools by the following procedure.

1. The employee will be excused from work if class hours fall on the regular scheduled shift.

2. If classroom hours fall on the employee's scheduled day off or after completion of the regular shift, no compensation will be given for attending the class or classes.

If classroom hours are partially scheduled during the regular work period and continue beyond the eight hour shift schedule, the employee will be compensated only for those hours that were included during the regularly scheduled work period.

3. A registration, testing, and travel expense fee will be paid by the City at each grade level or class level the employee is trying to obtain. If the employee fails to successfully complete the level on the initial try, then the employee will be responsible for all other expenses incurred for further testing. Time will be granted from work but no compensation will be given for hours missed. The employee will be allowed to use accumulated vacation time to receive pay for time away from work for school attendance.

4. Once the employee has successfully obtained a new grade or class level; an increase in pay, as approved by the City Council will be awarded.

Section 3. That **ARTICLE VI. LEAVES, SECTION 2. VACATION AND LEAVE,** item **(a) VACATION EARNED** be deleted and replaced with the following:

(a) VACATION EARNED - Each employee of the City shall earn vacation leave based on the following:

Upon completion of the probationary period and becoming a regular employee, earned vacation time will be computed by multiplying the number of hours actually worked are a rate of 4.2%. (Multiply .042 times the number of hours actually worked to find the earned vacation leave in hours. Example: 40 hours worked x .042 = 1.68 hours earned vacation.)

The accumulation of vacation time will NOT start until the end or the probationary period.

Section 4. That **ARTICLE VI. LEAVES, SECTION 3. SICK LEAVE,** item **(a) SICK LEAVE EARNED** be deleted and replaced with the following:

(a) SICK LEAVE EARNED - Each regular employee shall earn sick leave as follows:

Upon completion of the probationary period and becoming a regular employee, earned sick time will be computed by multiplying the number of hours actually worked at a rate of 2.1% (Multiply .021 times the number of hours actually worked to find the earned sick leave in hours. Example: 40 hours worked z .021 = .84 hours earned sick leave.)

The accumulation of sick leave will NOT start until the end of the probationary period.

Section 4. That **ARTICLE IX. SAFETY AND ACCIDENTS AND DRIVER'S LICENSE, Section 3. DRIVERS LICENSE** be added as follows:

Many jobs with the City of Marion require a valid North Carolina drivers license. The following is the policy of the City of Marion regarding suspended and/or revoked drivers license after employment. This Section does not apply to police and fire personnel.

I. Requirement for Driver's License - All employees in the following departments are required to have a valid North Carolina driver's license

A. Sanitation
B. Street
C. Water
D. Water Treatment
E. Waste Water Treatment
F. Public Works Administration
G. Purchasing
H. Personnel
I. Zoning
J. Inspection
K. Fleet Maintenance

II. Suspension and/or Revocation of Drivers License -The following procedure shall be followed regarding suspension and/or revocation of drivers license:

An employee is required to report the loss of his/her drivers license to his/her immediate supervisor the following scheduled work day. Failure to comply will lead to suspension or dismissal.

Any employee may continue to work for a period of 30 days if his/her drivers license have been suspended. If the employee's license is reinstated before the end of this time period, no action will be taken. A suspension or revocation for 31 days to 90 days will result in the

employee having a nondisciplinary suspension, without pay. If the employee's license is reinstated before this time period ends, the employee may return to his/her position prior to suspension.

Any employee required to have drivers license whose license have been suspended or revoked for a period of time longer than 90 days will be dismissed.

III. Restricted Drivers License - If a restrictive license can be obtained whereby an employee can fulfill his/her job requirement, then employment with the City may continue.

IV. Application - Please note that all reasons for losing ones license cannot be contained in this policy. Therefore, in application of this policy, an employees work record and reason for loss of license must be taken into consideration in determining the length of suspension, if dismissal is necessary or reinstatement could be considered. Every effort will be made to treat every one as fairly as possible.

Section 5. All Resolutions in conflict with this Resolution Amendment are hereby repealed.

Section 6. This Resolution shall be in full force and effect upon its adoption.

ADOPTED this the 16th day of April, 1991.

A. Everette Clark
Mayor A. Everette Clark

ATTEST:

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

REQUEST FOR FUNDING - FAMILY SERVICES: The City Manager presented a request to Council from Family Services for funding for the 1991-1992 fiscal year. The request was in the amount of $10,000.00.

Those members of Council present agreed to hold the item until the budget meetings.

ORDINANCE - NO PARKING ZONES - WEST MARION: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Ordinance:

ORDINANCE
NO PARKING ZONES

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 listed below:

a. **WEST WILHEMENIA STREET** - The south side of the street west from the intersection of Oak Avenue, continuing the length of the street.

b. **HIGH STREET** - Both sides, west from the intersection of Oak Avenue, continuing the length of the street.

c. **EAST WILHEMENIA STREET** - Both sides, east from the intersection of West Henderson, continuing the length of the street.

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

Section 3. The above **NO PARKING ZONES** shall be added to the **CITY OF MARION TRAFFIC SCHEDULE** under "Section 18-239 Parking Prohibited at all times on Certain Streets."

ADOPTED this the 16th day of April, 1991.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Ordinance # O-91-04-16-01

ORDINANCE - PROHIBITING CONSUMPTION OF ALCOHOLIC BEVERAGES: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Ordinance:

ORDINANCE
CONSUMPTION OF ALCOHOLIC BEVERAGE

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

Section 1. (a) It shall be unlawful for any person to consume any Alcoholic Beverage as defined by G.S. 18B-101 on any property owned or controlled by the City of Marion, or upon any public vehicular area; provided that this section shall not apply to the premises of those establishments that have an "on premises" ABC permit as prescribed under G.S. 18B-1001.

(b) Such public vehicular area shall mean and include any drive, driveway, road, roadway, street, sidewalk, alley, parking area, or other space open for the purpose of vehicular traffic or operation upon the grounds or premises of:

(1) Any public or private hospital, college, school, or church, or any institution maintained and supported by the State of North Carolina, McDowell County, or the City of Marion.

(2) Any service station, car wash, supermarket, store, restaurant, amusement center, lounge, shopping center, or office building, or any other business or municipal establishment or groups of such establishments, providing parking space for customers, patrons, employees, or the public.

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. This ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 16th day of April, 1991.

Everette Clark, Mayor

ATTEST:
J. Earl Daniels, City Manager/Clerk

Ordinance # O-91-04-16-02

STATE MANDATE - COMMERCIAL DRIVERS LICENSES: The City Manager presented a memorandum to Council concerning the mandated commercial driver's licenses. The memorandum stated that by April 2, 1992, all individuals driving vehicles of more than 26,000 pounds must have a commercial driver's license.

The memorandum stated that the requirement would effect a minimum of fifteen persons at an approximate cost of $97.50 per person which includes classes at McDowell Tech, a written test and a road test.

The City Manager stated that he needed direction if the City or if the individual should pay.

Councilman Stronach stated that he would like to question the number of licenses needed. He was advised that fifteen persons were the minimum that should be licensed.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to pay for the license and classes the first time for licensing of persons now employed, to have an agreement with the persons that if they leave employment within six months, the City would be reimbursed proportionately. Upon expiration of the license, the employee will be required to get the license themselves.

Councilman Little stated that he felt that Cities and Counties should be exempted from the licensing fees.

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

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to adjourn until the April 18, 1991 Joint Meeting with the County Commissioners and Town of Old Fort.

A. Everette Clark

A. Everette Clark

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

May 7, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, May 7, 1991 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; Lovina Smith, Zoning Administrator; Bill Gilsdorf, Chief of Police; Glen Sherlin, Public Works Director; Larry Ballard, Utility Line Superintendent; Johnny Patton, Police Officer; Cindy Byas, News Reporter, WDLF Radio; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Leslie Wilkie, 111 Oak Street; Jeanette Lynch, 111 Oak Street; Charlie M. Petty, 109 West High Street; Kim Rutherford, 127 High Street; Cynthia Washburn, Route 5, Box 7; Timothy Washburn, Route 5, Box 7; Tillie Twitty, 405 Hudgins Street; Lee Freeman, 506 West Henderson Street; Billy Pearson, 127 California Avenue; Mary Virginia Forney, 120 Ridley Street; Thurman Beam, 108 Wilhemenia Street; Mary E. Smith, 319 Yancey Street; Tracy Douglas, 319 Yancey Street; Carl Ferguson, 115 California Avenue; Jonathan Borders, P. O. Box 2260; Jimmy Avery, 108 High Street; Elsie Logan, Route 5, Box 2; Cora West Frazier, P. O. Box 2353; Tammy E. Beam, 101 Ridley Street; Cecelia Swepson, P. O. Box 26; Alice Logan, 109 Grayson Street; Shirley Grant, Route 5, Box 4; Troy William; Keith Webb, McGill Associates, P.A., Asheville; Roy Alexander, McGill Associates, P.A., Asheville; and Gary McGill, McGill Associates, P.A., Asheville.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the April 16, 1991 meeting.

WEST MARION RESIDENTS: Several residents of the West Marion Community appeared before the Council concerning "No Parking Zones" on West Wilhemenia Street, High Street, and East Wilhemenia Street.

Mr. Billy Pearson, 127 California Avenue, spoke on behalf of those present who were concerned about the youth of the community. He stated that High Street is the only safe area in the community for youth to gather. He cited recreation as being a major need. It was his opinion that if the youth had a place to go to visit with their friends, people would not gather on High Street, thus eliminating outsiders from coming into the community.

Mr. Lee Freeman stated that he felt the kids were being treated like criminals. He stated that he would like to see everyone treated equally.

Ms. Tracy Douglas, 319 Grayson Street, stated that the young people in the community were intimidated. She stated that the elders in the area needed to respect the young people. She cited recreation as a major need in the area.

Ms. Tillie Twitty stated that youth cruising the community had been reduced, however the residents would like for the Police Department to continue their patrol of the area. She stated that the residents of the West Marion Community did not want to be treated in a special or different manner, they want to be served as residents of Marion receiving an equal and fair share of funds and

services.

Ms. Jinnie Avery, 108 West High Street, stated that many residents of the area need parking in front of their homes because they do not have off-street parking. Several of the residents present agreed with Ms. Avery and described their own parking needs.

Mr. Billy Pearson concluded by stating that the two main problems of the West Marion Community was (1) recreation
and (2) parking.

Mayor Clark explained that the City of Marion makes a annual contribution to the Marion/McDowell/Old Fort Recreation Commission. He suggested that the request for recreation facilities for the West Marion Community be submitted to the Commission for consideration.

Mr. Daniels, City Manager, stated that two areas of the community had been considered for mini-parks with playground equipment for the young children.

Mr. Pearson disagreed with the idea of mini-parks. He stated that mini-parks would give people a place to congregate.

A lengthy discussion continued concerning both "No Parking Zones" and the recreation needs of the community.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, the Council voted unanimously to revoke Ordinance #0-91-04-16-1 (ORDINANCE - NO PARKING ZONES) adopted April 16, 1991 and to forgive all citations issued. The Street Committee will make a recommendation concerning parking as soon as possible.

CLINCHFIELD/FOREST ROAD SEWER IMPROVEMENT PROJECTS: Mr. Gary McGill, McGill Associates, P.A., appeared before the Council concerning a proposed closeout change order for the paving of the Clinchfield Area.

Mr. McGill explained that the change order was necessary due to revisions made to (1) relocate a line which was eliminated on property owned by Mr. Russel Neighbors and (2) due to requirement of the North Carolina Department of Transporation's Encroachment Agreement. The Encroachment Agreement required additional stone base and binder with the entire road bed to be overlaid. He stated that State requirements on this project were not normally what is seen in other areas. Discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council voted unanimously to approve Change Order No. 1 as presented.

BALDWIN AVENUE PUMP STATION - RESOLUTION AUTHORIZING SALE: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council voted unanimously to adopt the following Resolution:

CITY OF MARION
RESOLUTION AUTHORIZING THE SALE OF CERTAIN REAL PROPERTY
AT PUBLIC AUCTION

WHEREAS, the City Council of the City of Marion, North Carolina desires to dispose of certain surplus property of the City.

NOW THEREFORE, BE IT RESOLVED by the City Council that:

1. The following described property is hereby declared to be surplus to the needs of the City:

BEGINNING at a stake in the Southern line of the property of Clinchfield Manufacturing Company, which stake is located 94.8 feet North 83 degrees 30 minutes West from a concrete monument on the Western margin of Baldwin Avenue, the Southwest corner of Clinchfield Manufacturing Company, said concrete monument also being located in the line of Frank Conley, and runs thence from said beginning point North 13 degrees 11 minutes West 30 feet to a stake; thence North 76 degrees 49 minutes East 30 feet to a stake; thence South 13 degrees 11 minutes East 40.8 feet to a stake in the Southern line of Clinchfield Manufacturing Company; thence North 83 degrees 30 minutes West 31.8 feet to the BEGINNING.

THIS BEING Tract #2 as conveyed by Burlington Industries, Inc. on 09-20-74 to the City of Marion as recorded in Deed Book 242 at page 382 in the McDowell County Registry. Also see McDowell County Tax Map 14C, Block 10, Lot 12.

2. The City Manager is authorized to receive in behalf of the City Council bids at Public Auction for the purchase of the described property.

3. The Public Auction will be held on June 18, 1991 at 10:00 A.M. at the City Council Chamber on Brown Drive. The terms of sale shall be cash or cashiers check.

4. The City Clerk shall cause a notice of the public auction to be published in accordance with G.S. 160A-270(a).

5. The person making the highest bid shall deposit with the City Clerk an

amount equal to 5% of the bid.

6. The highest bid shall be reported to the City Council and must be accepted and confirmed by the City Council before the sale will be final.

ADOPTED this the 7th day of May, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

FEE - CLOSING OUT SALES: Mr. Daniels presented a memo concerning fees for closing out sales. The current City ordinance regulating closing out sales allows a sixty (60) day period to complete the sale without obtaining a license and issuing a bond to the City to insure compliance with the ordinance.

The Ordinance states that a license shall be issued, upon the payment of a fee in an amount established by the City Council if the sale is to run over the sixty (60) day limit.

Upon a motion by Councilman Cross, seconded by Councilman Little, the Council voted unanimously to set a fee of $50.00 for each 30 days the sale is to run over the sixty (60) day limit.

RESOLUTION - OPERATION DESERT STORM - MEMORIAL DAY - DOWNTOWN BUSINESS ASSOCIATION/EMPLOYMENT SECURITY COMMISSION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council voted unanimously to adopt the following Resolution:

RESOLUTION
OPERATION DESERT STORM MEMORIAL DAY 1991
"GREAT VICTORY, BUT NOT WITHOUT LOSS"

WHEREAS, Memorial Day is a day to remember those men and women that made the ultimate sacrifice for their country; and

WHEREAS, In the past year, the President of the United States, with the approval of the United States Congress, depolyed a large number of the American service men and women to Saudi Arabia to defend American interest; and

WHEREAS, More than one hundred men and women from McDowell County served in this great victory and performed very professionally and honorably in a difficult environment and under trying circumstances; and

WHEREAS, While not one McDowell County man or woman was called to amde the ultimate sacrifice, let us not forget those that did; and

WHEREAS, While the victory was great, any loss of our most precious resource, our young men and women that proudly served their country, is a loss that will never be recovered.

NOW THEREFORE, LET IT BE RESOLVED that the Marion City Council does commemorate this day and honor the heros that made the ultimate sacrifice in the service their country and do hereby designate the day of May 27, 1991, in the City of Marion, in McDowell County, North Carolina, as . . .

OPERATION DESERT STORM MEMORIAL DAY

and call upon the people of the City of Marion to recognize and participate in this day.

A. Everette Clark, Mayor

ORDINANCE - ESTABLISHING HOURS OF OPERATION OF THE MARION COMMUNITY BUILDING PLAYGROUND, TENNIS AND BASKETBALL COURTS: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted unanimously to adopt the following Ordinance:

ORDINANCE ESTABLISHING HOURS OF OPERATION OF THE MARION

COMMUNITY BUILDING PLAYGROUND, TENNIS AND BASKETBALL COURTS.

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

Section 1. No persons shall be on the Marion Community Building Playground, Tennis Courts or Basketball Courts between the hours of eleven (11) o'clock p.m. and six (6) o'clock a.m. local time.

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.

ADOPTED this the 7th day of May, 1991.

A. Everette Clark

A. Everett Clark, Mayor

ATTEST: J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

Ordinance #

CHAMBER OF COMMERCE - BUDGET REQUEST: The City Manager presented a request to Council from the McDowell County Chamber of Commerce for funding in the 1991-92 fiscal year. The request was in the amount of $2,000.00..

The Council agreed to hold the item until the budget meetings.

DOWNTOWN BUSINESS ASSOCIATION - BUDGET REQUEST: The City Manager presented a request to Council from the Downtown Business Association for funding in the 1991-92 fiscal year. The request was in the amount of $15,000.00.

The Council agreed to hold the item until the budget meetings.

CONNECTION TO WATER AND SEWER SYSTEMS - NORTH MAIN STREET (THE FIVE-LANE AREA) AND HIGHWAY 70 WEST: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council voted unanimously to accept the recommendations of the Utility Committee to require **ALL** occupied businesses located on North Main Street (the Five-Lane Area) and Highway 70 West within the City Limits to connect to the City water and sewer systems unless connection can not be made because of legal right-of-way problems or elevation problems. All other businesses, not occupied, would be required to be connected to the City water and sewer systems when occupied. Residential units will not be required to be connected at this time; however, such units will be required to be connected if sold to a new owner or if the septic tank fails for any reason or the well becomes contaminated. No septic tanks may be repaired or replaced where sewer service is available inside the City Limits.

PAVING BIDS: Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to accept paving bids as submitted by Thompson Contractors for the 1991 street paving program.

EXECUTIVE SESSION: Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to adjourn into Executive Session.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

May 20, 1991

The City Council for the City of Marion met in Special Session on Monday night, May 20, 1991 in the County Commissioners Board Room.

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

BOARD MEMBERS ABSENT: Councilmen Angus Stronach and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager. Minutes of the McDowell County Commissioners for May 20, 1991 provide a list of all other persons present at the meeting.

RECREATION CENTER - ACADEMY STREET - INSURANCE SETTLEMENT:
County Attorney Robert Hunter explained that the purpose of the joint meeting of the County Commissioners, Marion City Council and the Recreation Commission was to consider the settlement offer from Aetta Insurance for the Recreation Center Building destroyed by fire in the fall of 1990.

Mr. Hunter brought all in attendance at the meeting up to date on all activities regarding negotiations, including all estimates, appraisals and correspondance. He advised that it appeared that we would be unable to reach an agreement and that the matter would have to be settled in Court; however, he had received an offer which may be acceptable. He advised that the insurance company had offered to settle for a total payment of $740,883.51 and pay architectial and other expenses leading up to the settlement.

Mayor Clark asked members of Council if the settlement was agreeable. Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present unanimously voted to agree to the settlement and authorize the Recreation Commission to accept the settlement.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler the meeting was adjourned.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:
J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

MAY 21, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, May 21, 1991 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBERS ABSENT: Councilman Angus Stronach

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Bill Gilsdorf, Chief of Police; Glen Sherlin, Public Works Director; Cindy Byas, New Reporter, W.D.L.F. Radio Station; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio Station.

GUEST PRESENT: Woody Harton, North Carolina Department of Natural Resources and Community Development, Asheville; Robin Hood, 116 Board Street; Nancy Guthrie, 101 Oakwood Drive; Michael T. Lowery, 208 Harmony Grove Road; Lula Swepson, P. O. Box 26; Bobby Kincaid, 121 East Wilhemenia Street; Clyde Henline, 314 Summit Street; Rev. Jimmy White, 430 Hudgins Street; Thurman Beam, 108 West Wilhemenia Street; Jeanette Parks, 98 Wilhemenia Street; Robert L. Steppe, 98 Wilhemenia Street; Wynn Jackson, 404 West Henderson Street; David F. Tilson, Tilson Sanitation; Carl Furgeson, 115 California Avenue; Jonathan Borders, P. O. Box 2260; David R. Logan, P. O. Box 994; Gail Williams, 114 High Street; Guy Jackson, 617 Airport Road; Ida Sue Conley, 317 Yancey Street; Tillie M. Twitty, 405 Hudgins Street; and Helen Logan, 729 West Henderson Street.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman

Tyler, those members of Council present voted unanimously to approve the Minutes of the April 18, 1991 and May 7, 1991 meetings.

PUBLIC HEARING - REZONING REQUEST - MR. GUY JACKSON: Mr. Guy Jackson appeared before the Council to request that property he owns located on East Wilhemenia Street be rezoned from R-2 General Residential District to C-2 General Business District.

Mr. Robin Hood, Chairman, of the City of Marion Planning/Zoning Board informed the Council that a Public Hearing had been held on Thursday, May 16, 1991 concerning Mr. Jackson's request. He advised the Council that it was a unanimous decision of the Board to recommend that the rezoning request be denied. Mr. Hood stated that rezoning of this property would clearly be spot zoning in that it was not contiguous to their commercial properties.

Mr. Woody Harton, Planning with the North Carolina Department of Economic and Community Development, stated that spot zoning, as defined by the Courts, is when you sing out one lot and place it into a different zoning district that all the surrounding properties. Thus placing either greater or less restrictions on that lot than surrounding properties. He added that very few cases of spot zoning has been upheld by the Courts.

Mr. Jackson informed the Council that the landscaping materials and logs on the property belonged to his son, Wynn Jackson. He expressed concern about the length of time his son would have to move the logs and landscaping material if the property was not rezoned.

Mr. Bobby Kincaid, 121 East Wilhemenia Street, stated that he owned the property adjacent to Mr. Jackson's. He stated that he did not want to see the property become commercial.

Upon a motion by Councilman Steve Little, seconded by Councilman Joe Tyler, those members of Council present voted unanimously to affirm the recommendations of the City of Marion Planning Board to deny the request. Mr. Jackson was granted a period of six (5) month to remove the logs and landscaping materials from the property during which time no additional material can be moved on the property>

PUBLIC HEARING - REZONING REQUEST - MR. WYNN JACKSON: Mr. Wynn Jackson appeared before the Council to request that property he owns located at 505 West Henderson Street be rezoned from R-2 General Residential District to C-2 General Business District.

Mr. Robin Hood, Chairman, of the City of Marion Planning Board informed Council that a Public Hearing had been held on Thursday, May 16, 1991 concerning Mr. Jackson's request. He advised the Council that it was a unanimous decision of the Board to recommend that the rezoning request be denied. Mr. Hood stated that rezoning of this property would clearly be spot zoning in that it was not contiguous to other commercial properties.

Mr. Jackson stated that he understood that a spectacular sign was not permitted in the R-2 General Residential District. He asked that his property be rezoning so that he could continue to located a spectacular sign on his property to advertise his business.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to affirm the recommendations of the City of Marion Planning Board to deny the request.

NO PARKING ZONE ORDINANCE - WEST MARION COMMUNITY: Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following ordinance:

ORDINANCE
NO PARKING ZONES

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 listed below:

WEST WILHEMENIA STREET - The south side of the street west from the intersection of Oak Avenue, continuing the length of the street.

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

Section 3. The above **NO PARKING ZONE** shall be added to the **CITY OF MARION TRAFFIC**

SCHEDULE under "Section 18-239 PArking Prohibited at all times on Certain Streets".

ADOPTED this the 21st day of May, 1991.

A. Everette Clak, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

TILSON SANITATION - IMPROPER BILLING FOR SERVICE: Mr. David Tilson appeared before the Council concerning garbage service provided to residences in the Clinchfield and Five-Lane areas.

The City Manager informed the Council that Mr. Tilson has been billing the City of Marion for garbage service for residences in the Clinchfield area and on the Five-Lane when City crews have been providing the service. According to the contract, Mr. Tilson was to be paid for refuse that was picked up from residences he was serving prior to the annexation of those areas. The amount over billed to the City was $2,070.00.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of the Council present voted unanimously to refer the matter to the Utility Committee for a recommendation. Payment of the April billing will be held until a decision has been reached.

CLYDE HENLINE - DAMAGE TO PROPERTY: Mr. Clyde Henline appeared before Council concerning damage to the underpinning of his house. It was his opinion that the damage was cause by water run-off from the reservoir property. He stated that he had an estimate of $400.00 for labor only to do the repairs necessary. He would supply all material.

Councilman Ayers stated he had looked at the damage and felt it was possible that some of the damage could have been caused by water run-off from City property.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council present voted unanimously to approve an amount of $400.00 to be paid to Mr. Clyde Henline for damages to his property as a result of construction work causing water run-off from the reservoir.

15 MINUTE PARKING ZONE - MAIN STREET - REQUEST FROM COMMUNITY BANK: The City Manager presented a request from Community Bank & Trust Company for a 15 minute parking zone. Currently there is one space directly in front of the bank that is designated for 15 minute parking. The request is for an additional space.

Upon a motion Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to deny the request for an additional 15 minute parking space.

DOT - TIP PROGRAM FOR 1991: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to endorse the Summary of Proposal in the Transportation Improvement Program (TIP) as prepared by the McDowell County Chamber of Commerce.

TOWN HALL DAY - JUNE 11, 1991 - RALEIGH CIVIC CENTER: None of the Council plans to attend Town Hall Day to be held on June 11, 1991.

1991-92 BUDGET: A Breakfast Budget Session was scheduled for Tuesday morning, May 28, 1991 at 6:30 A.M. for discussion of the 1991-92 Budget.

PICKETING PERMITS: Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of the Council present voted unanimously to set a fee of $25.00 per week for picketing permits.

EXECUTIVE SESSION: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council present voted unanimously to adjourn to Executive Session.

ADJOURNMENT: Upon a motion by Councilman Tyler, 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

June 4, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, June 4, 1991 at 7:30 P.M. in the City Council Chamber.

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

BOARD MEMBERS ABSENT: Councilman Angus Stronach.

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, WDLF Radio; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, WBRM Radio.

GUEST PRESENT: David Tilson, Tilson Sanitation; Charles Presnell, 277 Worley Rd.; J. C. Clark, Candler, N. C.; Joann Finegold, Weaverville, N.C.; Mrs. Ida S. Conley; Mrs. Tillie Twitty; Rod Birdsong, 17 N. Garden St., Chuck Abernathy, County Manager; Annie Epley, McDowell County Commissioner; and Freddie Killough, Downtown Business Association.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the May 20, 1991 and May 21, 1991 meetings.

LOCAL GOVERNMENT RETIREMENT SYSTEM - CHARLES PRESNELL: Mr. Presnell appeared before the Council concerning the purchase of retirement benefits.

Mr. Presnell was employed by the City of Marion on November 1, 1972. He was placed on retirement on April 1, 1974 which was seventeen (17) months later.

The City Manager advised the Council that under City policy at the time of employment he was required to work a six (6) months probationary period before going on retirement. Due to employee changes in the bookkeeping department, Mr. Presnell and four other employees still working with the City were not placed on retirement immediately upon completion of their probationary periods.

Mr. Presnell asked the City of assist him in paying for eleven (11) months of time lost since the City failed to place him on retirement when he was qualified. The cost of the retirement credit is $2,453.76.

Upon a motion by Councilman Tyler, seconded by Councilman Ayers, those members of Council present voted unanimously to pay one-half of the cost to buy any retirement credits lost by current employees who were not placed on retirement at the end of their probationary period. The deadline for purchasing retirement credit lost is June 30, 1992.

MCDOWELL CHORAL SOCIETY - REQUEST TO PLACE BANNER: The City Manager presented a request to Council for an announcement banner to be placed across South Main Street for the McDowell Chorale Society, a division of the McDowell Arts and Crafts Association.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the banner to be installed on Friday, June 14, 1991 and to be removed on Monday, July 1, 1991.

FOURTH OF JULY CELEBRATION - REQUEST TO PLACE BANNER: The City Manager presented a request to Council for an announcement banner to be placed across South Main Street for the Fourth of July Celebration.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to approve the banner to be installed on Friday June 14, 1991 and to be removed on Friday, July 5, 1991.

MCDOWELL CHAMBER OF COMMERCE - REQUEST TO EXTEND SITE FOR MOUNTAIN GLORY FESTIVAL: Mr. Rod Birdsong, Executive Director of the McDowell County Chamber of Commerce, appeared before the Council to request an extension of the site used for the Mountain Glory Festival scheduled for October 12, 1991. The extension would include one-half block of North Main Street from the present site to Brown Drive, the mini-parking lot adjacent to Brown Drive on North Main Street, and the City

parking lot located on Brown Drive.

Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the extension of the site used for the Mountain Glory Festival as requested.

AMERICAN CANCER SOCIETY - JAILATHON - REQUEST TO RESERVED PARKING SPACES IN FRONT OF COURT HOUSE AND SERVICES OF OFFICERS TO CARRYOUT ARRESTS: The City Manager presented a request to Council from the American Cancer Society for a Jailathon to be held on the McDowell County Courthouse lawn on Thursday, June 13, 1991. The application included a request for the use of police officers and vehicles in making voluntary arrest and blocking four (4) parking spaces in front of the courthouse.

The City Manager advised Council that this is a method used by many organizations to raise funds; however, he is concerned about the liability of the City in using police officers and official vehicles in this manner.

Councilman Little stated that he was opposed to using police officers and official vehicles in making voluntary arrest; however, he was not opposed to blocking off four (4) spaces for parking during the Jailathon from 9 A.M. to 4 P.M.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to allow four (4) parking spaces to be blocked off in front of the McDowell County Courthouse and to deny the request for police officers and official vehicles to be used in making voluntary arrests.

TILSON SANITATION - UTILITY COMMITTEE RECOMMENDATION: Mr. David Tilson appeared before the Council concerning garbage service provided to residences in the Clinchfield and Five-Lane areas.

The City Manager informed the Council that Mr. Tilson had billed the City $90.00 per month for residences where he had not picked up garbage.

It is the opinion of the Utility Committee that Mr. Tilson is entitled to be paid for one year of service to these residences in accordance with the agreement between Tilson Sanitation and the City of Marion. Since he has not been serving the residences in the Clinchfield and Five-Lane areas, but has continued to bill the City $90.00 per month for this service, the Utility Committee believes the City should not have to pay for services not received. Since he has already been paid for this service for several months beyond the one year period, the Utility Committee recommends that Mr. Tilson be paid for only six (6) months service in the second year for residential garbage services. The total payment for April and May would be $1,088.50, with the June payment being $679.25 which is the final billing.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to accept the recommendations of the Utility Committee.

THRIFTY SHOPPER - GOING OUT OF BUSINESS SALE - MR. J. C. CLARK: Mr. J. C. Clark and Ms. Joann Finegold of The Thrifty Shopper appeared before the Council concerning the Going Out of Business Ordinance.

The City Manager informed the Council that The Thrifty Shopper is in the process of going out of business. Several complaints have been received that Mr. Clark is replenishing the stock which is not allowed by the ordinance.
The City Manager stated that Mr. Clark has been advised that a $50.00 permit is required and he should present the City a complete inventory of the stock in the store and a $500.00 bond. It was the City Manager's opinion that only stock on hand at the beginning of the going out of business sale should be listed in the inventory of stock and no additional stock should be moved in after the beginning of the sale.

Mr. Clark advised that he does have stock stored in another county that he wishes to continue moving to this location. He stated that it would be impossible to provide the City with a complete item by item inventory; however, he could provide a dollar value inventory. He did not feel that he should have to provide a bond. He stated that they are schedule to be out of the building before August 1, 1991.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted unanimously to allow Mr. Clark ten (10) days to move inventory into The Thrifty Shopped located in the Marion City Square. At the end of ten (10) days he is to provide the City of Marion with a total dollar value for his inventory. If the going out of business sale extends past August 1, 1991, Mr. Clark shall comply with all the requirements of the Going Out of Business Ordinance as it refers to permits, inventory reports and bonds as required.

MCGILL ASSOCIATES, P.A. - CLINCHFIELD/FOREST ROAD -ENGINEERING SERVICES BILL: The City Manager presented Council a letter from McGill Associates, P.A. for engineering services for sewer improvements projects in the Clinchfield and Five-

Lane areas.

He explained that the original budget for the projects included an amount of $50,675.00 to cover administration, design engineering, surveying and inspections prior to any modifications or changes. Several changes were made to the projects.

The invoice submitted was in the amount of $77,795.66. Mr. McGill stated in his letter that this amount includes all basic services for preliminary engineering and planning, design, regulatory approvals, construction bidding, contract administration and construction inspections, as well as additional services for easement acquisition assistance, selected routing redesigns, geotechnical testing and post construction services.

Mr. McGill advised that under the FmHa format he could justify a billing of $65,812.22, which would be $11,983.44 less than his invoice.

Mr. McGill attributed the cost over-run to surveying cost. The surveying cost was budgeted on using in-house surveyors. Once into the project, it became necessary to use a local survey at which time the cost of survey doubled.

A motion was made by Councilman Cross, seconded by Councilman Little, to pay McGill Associates, P.A. $65,812.22, the amount justifiable by FmHa format, plus one-half of $11,983.44, for a total of $71,803.94. The vote was as follows: Ayes - Councilman Ayers, Little, and Cross. Nos -Councilman Tyler.

CONTRACT TO AUDIT CITY ACCOUNTS: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to approve the contract to audit City accounts as presented by Johnson, Price & Sprinkle, P.A.

UTILITY COMMITTEE REPORT AND RECOMMENDATIONS ON REQUESTS:

1. PROPERTY LOCATED AT THE INTERSECTION OF THE BYPASS AND 221 SOUTH: The City Manager presented a request for water and sewer service for property located at the intersection of the Bypass and 221 South. This property is located outside the City Limits of Marion and is not contiguous to those properties in the City Limits. Discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the request. The developer is responsible for **ALL** cost involved in getting water and sewer service to the property, in addition to connection fees and system development charges.

2. PROPERTY LOCATED ON GARDEN CREEK ROAD OWNED BY THOMAS GOUGE: The City Manager presented a request from Mr. Thomas Gouge for sewer service for property located on Garden Creek Road. The property is currently served by City water. It is located outside the City Limits of Marion; however, it is contiguous to the City Limits. Discussion continued.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the request. Mr. Gouge is responsible for **ALL** cost involved in getting sewer service to his property, in additional to connection fees and system development charges.

POWELL BILL MAP - SERVICES OF R. L. GREENE MAPPING & SURVEYING, INC.: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to use the firm of R. L. Greene Mapping & Survey, Inc. for work concerning the Powell Bill Maps.

ROCKY PASS WATER LINE - MCDOWELL COUNTY REQUEST FOR FUNDS: County Manager Chuck Abernathy and County Commissioner Anne Lee Epley appeared before the Council concerning the water line being installed by the City of Marion to the Rocky Pass Rest Home.

Mr. Abernathy brought the Council up to date on the progress of the installation of the water line. At this point the project is at a standstill because of rock.

He stated that there were several methods by which the rock could be removed such as..... (1) Blasting - this method would leave the rock to be removed and dirt to be replaced by City crews. Two bids have been received to blast the road at an average cost of $25,000.00. He estimated that it would cost an additional $20,000.00 to $25,000.00 for the removal of the rock and replacement of dirt over the line; or (2) Contracting the removal of the rock and replacement of dirt. He estimated that this method might cost as much as $40,000.00.

He stated that County funds in the amount of $25,000.00 are available for the removal of the rock; however, it is anticipated that the cost, if contracted out, would run more than that. He requested assistance from the City in this cost. Discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of

Council present voted unanimously to approve funds up to an amount of $15,000.00 for the Rocky Pass water line project. Said funds to be spent after the County funds are spent.

COMMERCIAL GARBAGE SERVICE: Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted unanimously to discontinue commercial and industrial garbage collection service effective July 1, 1991. Garbage collection service will be provided to residents only.

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

REGULAR SESSION: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, those members of Council present voted unanimously to reconvene into Regular Session.

PROPERTY ACQUISITION: Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to purchase property belonging to First Federal Saving Bank located on South Main Street (Tax Map 22C, Block 4, Lots 15 & 16) at a purchase price of $165,000.00 contingent upon the approval of the Local Government Commission and suitable financing.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

JUNE 17, 1991

The City Council for the City of Marion met in Special Session on Monday afternoon, June 17, 1991, at 3:30 P.M. in the City Council Chamber.

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

BOARD MEMBERS ABSENT: Councilman Joe Tyler

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director, Glen Sherlin, Public Work Director; Lydia Carrington, News Reporter, The McDowell News.

GUEST PRESENT: Chuck Abernathy, McDowell County Manager

The Council viewed a video of the Rocky Pass water line project.

The City Manager reviewed the proposed 1991-92 Budget.

Commercial garbage was discussed at length. The Council directed the Utility Committee, along with the City Manager, the Public Works Director and Ed Hill, employee of the Sanitation Department to meet with representatives of the business community to discuss commercial garbage service.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

JUNE 18, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, June 18, 1991, at 7:30 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Claudia Hill, Tax Collector; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, WDLF Radio; Lydia Carrington, News Reporter, The McDowell News; Eric Millsap, Photographer, The McDowell News and Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Hank Taylor, Rainbow Land Daycare, 304 Baldwin Avenue; Larry Grant, Lemon Rentals, Highway 221 North; Dr. Gary Grindstaff, D.D.S., 219 South Main Street; Lloyd Cowart, Boomers Rhythm Center, 706 Highway 70 West; Sara Vallini, Merle Norman Cosmetics, 19 West Henderson Street; Howard W. Gouge, Gouge Glass Service, 602 Highway 70 West; Martha B. Bailey, Marion Pools, Inc., 414 East Court Street; Darrell Baggett, Darrell-Ford Mercury, Inc., Highway 70 West & 221 North; Johnny Freshour, Freshour's Market, 315 West Henderson Street; W. W. Howle, Marion Pharmacy, 236 South Main Street; Charles Isreal, Marion Television Sales & Service, 522 East Court Street; Max Hemphill, Hemphill Tire, Inc., 634 Highway 70 West; Woody Killough, Killough's Music & Loan, 105 South Main Street; Ronnie Burgin, Bi-Rite Video, Highway 70 West; David Huskins, Smokehouse Restuarant, 541 Highway 70 West; Russell H. Neighbors, Jr., Attorney at Law, 8 South Main Street ; Joe Jones, McDowell Distributing Company, 20 South Main Street ; John Fender, Professional Video Services, 40 South Main Street ; Kevin McGarr, Roseland Florist, 21 South Main Street; Lynn R. Collins, Carolina Tire Company, 437 Highway 70 West; Steve Keeter, Keeter's Auto Center, Highway 70 West & Valley Street; Warren Hobbs, N.C.N.B., 100 North Main Street; Rick Moore, Village Jewelry, 27 South Main Street; Bob Gaddy, Jr., Harvest Drive In, 521 Highway 70 West; Richard Buchanan, The McDowell House, Highway 70 West; Carroll Parker, City Tire & Recapping, 615 East Court Street; Howard McCurry, Kwik Kar Wash, Inc., 121 Railroad Street; Clyde Miller, Kentucky Finance Company, 9 West Henderson Street; James Condrey, Condrey Plumbing, Heating and Air Conditioning Contracting Company, 314 East Court Street ; Tony Austin, The Gent Shop, Highway 70 West; Bobby Austin, Rice & White Furniture Company of Marion, Inc., 131 South Main Street ; Ed Buchanan, Western Sizzlin Steak House, 650 Highway 70 West; Robert H. Keenan, D.D.S., 305 North Main Street; John McCurry, Kwik Kar Wash, Inc., 121 Railroad Street; Larry Stillwell, Big Daddy's Minit Mart, Rutherford R.; David Setzer, The McDowell News, North Logan Street; Judy Jarvis, Family Services of McDowell County, Inc., Blue Ridge Street; Bill Kehler, Kehler's City Food, 36 North Main Street; Bill Smith, Smith Furniture Company of Marion, Inc., 12 North Main Street; David Dubose, McDowell Twin Cinemas, Highway 70 West; Phillip Tate, Tate's Insurance and Financial Services, Inc., 32 North Madison Street; Bill Griffith, Bill Griffith Jewelry Store, 28 South Main Street; Jed Rankin, Marion Credit Company, 230 South Main Street; John Lewis, Main Street Exxon Service, 14 North Main Street; Sam Hall, 124 North Garden Street; Rebecca Smith, McDowell Computer Center, Inc., 705 Rutherford Road; John Karas, McDonald's of Marion, West Henderson Street; Jim Kalkworth, Garbage Disposal Service, Inc., Morganton, N.C.; Freddie Killough, Downtown Business Association; Fred Bulter, Garbage Disposal Services, Inc., Morganton, N.C.; Mitch Gillespie, 163 Lake Tahoma Road; and M. Freshour, Freshour's #3, Highway 221 North.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to approve the minutes of the June 4, 1991 meeting.

PUBLIC HEARING - 1991/92 BUDGET: The City Manager opened the Public Hearing with a review of the proposed 1991/92 Budget.

The Council voted unanimously on June 4, 1991 to discontinue commercial garbage service effective July 1, 1991. Garbage service would be provided to residents only. More than fifty businessmen were present concerning this matter.

Mayor Clark explained that the City was prepared to continue commerical garbage pickup service until the County enacted tipping fees. He commented that if the City was to continue the service, additional funds would need to come from somewhere.

Jed Rankin, Marion Credit Company, and several others were concerned about what they were to do with the dumpsters they had purchased to fit City equipment.

Councilman Little explained that businesses can raise the charges for their services or products to offset the cost of tipping fees when residents can not.

Howard McCurry questioned why the City could not handle the collection of garbage if private enterprises could. Could the City not pass the cost on to the business owners?

The City Manager stated that in addition to the tipping fee, the cost should cover the service, the maintenance of equipment and employees. It could be possible that additional equipment and employees would be needed.

Councilman Ayers explained that neither the City nor the County had a choice. The Federal and State governments had mandated that materials going into landfills be reduced by 25% by 1993.

Bobby Gaddy, Harvest Drive In, stated that business owners were aware of these requirements. He suggested that a committee representing the business community be appointed to meet with representatives of the City to work out a solution to the garbage problem. The following names were submitted: Bobby Gaddy, Harvest Drive In; Richard Buchanan, The McDowell House; John Karas, McDonald's; Lloyd Cowart, Boomer's Rhythem Center; and Bill Kehler, Kehler's City Food.

Phillip Tate, Tate's Insurance, suggested classification of businesses by the size of containers and weight.

The City Manager explained that it would be difficult to determine a charge for the trip based on the size of the container because the weight would vary according to the type of business (i.e.: Gouge Glass - broken glass would be very heavy, a lawyer office - small amount of trash).

The City Manager stated that planning for the disposal of cardboard should be looked into.

Judy Jarvis emphasized the need for long-range planning including recycling.

It was the general consensus of the businessmen present that now is the time to start planning for the requirements mandated by both Federal and State governments.

David Setzer, McDowell News, stated that he felt it was the desire of the community to continue garbage service with the City.

James Condrey, Condrey Heating, Plumbing and Air Conditioning, stated that he would rather see the City make a profit for collecting garbage than a private hauler. He stated that he felt the private hauler could keep increasing his rates.

Mr. Jim Kaulkworth, Garbage Disposal Service, Inc., described the services of his company.

Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to appoint a committee consisting of the following members to review garbage service: Councilmen Robert Ayers and Angus Stronach; J. Earl Daniels, City Manager; Glen Sherlin, Public Works Director; Ed Hill, City of Marion Sanitation Department; Bobby Gaddy, Harvest Drive Inc; Richard Buchanan, The McDowell House; John Karas, McDonald's; Lloyd Cowart, Boomer's Rhythem Center; and Bill Kehler, Kehler's City Food.

MITCH GILLESPIE - REQUEST TO OPEN STREET: Mr. Mitch Gillespie appeared before Council to request the following streets be opened: (1) off Tremont Street and (2) off Ellis Street.

The request was referred to the Street Committee for recommendation.

GARY DEAN WEBB - REQUEST TO RELOCATE PAWN SHOP: The City Manager presented Council a request from Mr. Gary Dean Webb to relocate the Five Lane Pawn Shop to 904 East Court Street. The move would allow for expansion, better access for the public and more security.

Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to approve the relocation of the Five Lane Pawn Shop to 904 East Court Street.

MARION CHURCH OF CHRIST - REQUEST TO PLACE SIGNS: The City Manager presented Council a request from Marion Church of Christ to install directional signs on top of existing City street signs.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, the Council voted unanimously to deny the request.

FAMILY SERVICES - JUDY JARVIS - FUNDING: Judy Jarvis appeared before the Council to request funding be appropriated in the 1991-92 Budget for Family Services of McDowell County, Inc. She described the services offered by Family Services.

PLAN 125 - RESOLUTION: Upon a motion by Council Cross, seconded by Councilman Tyler, the Council voted unanimously to adopt the following resolution:

CITY OF MARION
RESOLUTION - SECTION 125 PLAN

WHEREAS, the City of Marion (hereinafter referred to as the "City") wishes to provide for the pre-tax payroll deduction of group insurance premiums and/or employee reimbursement accounts for miscellaneous medical expenses and Dependent Day Care expenses for its employees.

WHEREAS, in order to accomplish this purpose, it wishes to adopt a pre-tax payroll deduction plan.

THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the City hereby establishes the City of Marion Section 125 Plan to be effective July 1, 1991.

BE IT FURTHER RESOLVED that the City of Marion does hereby establish a Flexible Compensation Plan incorporating the provisions set forth in the Summary of Plan Provisions presented in this meeting, a copy of which is annexed hereto (labeled as Exhibit A) and made a part of these minutes.

BE IT FURTHER RESOLVED that the officials of the City be and they are hereby authorized and directed to have the City's legal advisor and consultants prepare plan documents, to be known as the City of Marion Section 125 Plan, incorporating the provisions contains in the aforementioned summary to be effective July 1, 1991.

BE IT FURTHER RESOLVED that the officials of the city be and they are hereby authorized and directed to take such appropriate action as shall be required to determine that the Plan meets the requirements of the Internal Revenue Code of 1954 as a qualifying Plan under said Code.

BE IT FURTHER RESOLVED that the Committee appointed under the terms of the Plan shall be Marion City Council.

ADOPTED this the 18th day of June, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

PLAN 125 - AGREEMENT: Upon a motion by Council Cross, seconded by Councilman Tyler, the Council voted unanimously to approve the following agreement:

PROTOTYPE SECTION 125 PLAN DOCUMENT (PREMIUM CONVERSION)
FLEXIBLE BENEFIT PLAN
ARTICLE 1
PURPOSE

1.02 The Employer hereby adopts the Flexible Benefit Plan so that all eligible Employees may choose among different types of benefits offered under the Plan based upon the Employees' individual goals and needs. It is intended that this Plan satisfy and comply with the requirements of Internal Revenue Code Section 125 as amended and the regulations issued thereunder and, as may be applicable IRC Sections 79, 105, 106, and 129. The Plan name shall be City of Marion Section 125 Plan.

ARTICLE 2
DEFINITIONS

2.01 PLAN shall mean this agreement and all amendments thereof.

2.02 EMPLOYER shall mean City of Marion and any affiliate, subsidiary or successor which may adopt the plan.

2.03 EMPLOYEE shall mean any regular, full-time Employee of the Employer who is expected to work at least 40 hours per week.

2.04 the EFFECTIVE DATE of the Plan shall be July 1, 1991.

2.05 The PLAN YEAR shall commence on July 1, 1991 and end on June 30, 1992.

2.06 The ANNIVERSARY DATE shall be the first day of each PLAN YEAR.

2.07 PARTICIPANT shall mean a person who is an Employee on or after the Effective Date or who satisfies the eligibility requirements of Article 3.

2.08 COMPENSATION means the total salary or wages, including bonuses paid by the Employer to a Participant. However, Compensation shall not include expenses reimbursed with pre-tax dollars, any amounts credited by the Company on behalf of a Participant to a plan of Deferred Compensation payable in a form other than cash.

2.09 DEPENDENT means an individual who qualifies as a dependent under the terms of Internal Revenue Code Section 152.

ARTICLE 3
ELIGIBILITY

3.01 Each Employee of the Employer on the Effective Date of the Plan shall become a Participant on the Effective Date.

3.02 Employees hired after the Effective Date of the Plan shall be eligible to participate following six months (not to exceed 36) of continuous full-time employment. Following completion of the eligibility requirements set forth herein, the Employee shall become a Participant on the first day of the pay period or next succeeding Plan Anniversary Date, which ever first occurs.

3.03 Any re-employed former Employee shall become a Participant upon the Plan Anniversary Date coincident with or next following his or her re-employment or first day of the pay period next following re-employment, if earlier.

ARTICLE 4
AVAILABLE BENEFITS

4.01 Benefits available to be selected by eligible Employees shall be as indicated below:

Employee Medical Insurance
Dependent Medical Insurance
Employee Life Insurance
Dependent Life Insurance
Employee Dental Insurance
Dependent Dental Insurance
Employee Cancer Insurance
Dependent Cancer Insurance
Employee Intensive Care
Dependent Intensive Care

ARTICLE 5
SALARY REDUCTION AND BENEFIT ELECTIONS

5.01 Each participant in the Plan shall agree to have his compensation reduced in advance of each Plan Year. Except as may otherwise be provided by the Employer, the Compensation reduction shall reduce the Participant's Compensation ratably on each pay period during the Plan Year following the Effective Date of the Participant's participation.

5.02 Each Participant shall make benefit elections on forms and in a manner prescribed by the Employer. In addition to the benefit elections may be made by the Participant, each Participant may elect to receive as cash compensation that amount set aside as a Compensation reduction amount at the time such Compensation would have been paid without regard to this Plan. In addition, the Participant may elect to have any or all benefits paid under this Plan with post-tax dollars as opposed to pre-tax dollars. In the event the Participant elects to have benefits paid with post-tax dollars, this shall be treated as a cash distribution and such amount so expended shall be reported as income by the Employer to the Employee.

5.03 A Participant's initial benefit election shall be made as a part of his Participant application. Thereafter, a Participant may change his benefit election for any Plan Year by providing written notice, in a form acceptable by the Employer, at least thirty (30) days prior to the first day of the Plan Year for which the change is to be effective. A Participant's benefit election for any Plan Year shall be irrevocable during the Plan Year except that a Participant may revoke an election and make a new election on the account of and consistent with a change in family status such as: marriage, divorce, death of spouse, birth, adoption, death (or loss) of eligible dependent; termination or commencement of spouse's employment; significant change in cost or coverage; taking an unpaid leave of absence by employee or employee's spouse, or changing from full-time to part-time for either the employee or the employee's spouse. Any such change shall

be effective at the first of the pay period following the date the Employer receives the Participant's written notice of change of election.

ARTICLE 6
INSURANCE PREMIUM REIMBURSEMENT BENEFIT

6.01 To the extent offered under this Plan and to the extent a Participant has so elected, the applicable portion of a Participant's compensation reduction contribution shall be used to pay those elected insurance premium expenses.

6.02 The Employer may pay these insurance premium expenses directly to the insurance company without the necessity of reimbursing amounts already paid to the Employee. This shall be construed as a reduction of compensation by the Employee and a reimbursement to the Employee.

ARTICLE 7
LIMITATION ON CONTRIBUTIONS

7.01 No more than twenty-five (25%) percent of the total benefits paid from the benefits offered under this Flexible Benefit Plan during any Plan Year may be paid to Participants who are Key Employees as defined in Internal Revenue Code Section 416 (i)(1) or to Participants who are spouses or dependents of Key Employees as defined in Internal Revenue Code Section 416(i)(1) or to Participants who are spouses or dependents of Key Employees as defined in Internal Revenue Code Section 416(i)(1). If the Employer anticipates that this twenty-five (25%) percent limit may be exceeded, it may, arbitrarily and in its absolute discretion, limit for those Participants who are Key Employees (a) the amount of a Key Employees Participant's salary reduction contributions and/or (b) the amount of benefits that may be paid to Key Employee Participants so that the limit will not be exceeded; provided that any such limitation imposed by the company shall apply on a uniform and non discriminatory basis pursuant to rules applicable equally to all Participants who are Key Employees.

ARTICLE 8
CLAIMS PROCEDURE

8.01 Claims Procedure. The Employer shall notify a participant in writing within ninety (90) days of his written application for benefits of his eligibility of or non-eligibility for benefits under the Plan. If the Employer determines that a Participant is not eligible for benefits or full benefits, the notice shall set forth (1) the specific reasons for such denial, (2) a specific reference to the provision of the Plan on which the denial is based, (3) a description of any additional information or material necessary for the claimant to perfect his claim, and a description of why it is needed, and (4) an explanation of the Plan's claims review procedure and other appropriate information as to the steps to be taken if the Participant wishes to have his claim reviewed. If the Employer determines that there are special circumstances requiring additional time to make a decision, the Employer shall notify the Participant of the special circumstances and the date by which a decision is expected to be made, and may extend the time for up to an additional ninety day period. If a participant is determined by the Employer to be not eligible for benefits, or if the Participant believes that he is entitled to greater or different benefits, he shall have the opportunity to have his claim reviewed by the Employer by filing a petition for review with the Employer within sixty (60) days after receipt by him of the notice issued by the Employer. Said petition shall state the specific reasons the Participant believes he is entitled to benefits or greater or different benefits. Within sixty (60) days after receipt by the Employer of said petition, the Employer shall afford the Participant (and his counsel, if any) an opportunity to present his position to the Employer orally or in writing, and said Participant (or is counsel) shall have the right to review the pertinent documents. The Employer shall notify the Participant of its decision in writing within said sixty-day period, stating specifically the basis of said decision written in a manner calculated to be understood by the Participant and the specific provisions of the Plan on which the decision is based. If, because of the need for a hearing, the sixty-day period is not sufficient, the decision may be deferred for up to another sixty-day period at the election of the Employer, but notice of this deferral shall be given to the Participant. In the event of the death of a Participant, the same procedure shall be applicable to his beneficiaries.

ARTICLE 9

9.01 Administration. The Plan shall be administered by the Employer. The Employer shall bear all administrative costs of the plan.

9.02 Powers of Employer. The Employer shall have all powers necessary to administer the Plan, including, without limitation, powers:

(a) to interpret the provisions of the plan
(b) to establish and revise the method of accounting for the Plan and maintain the accounts; and

(c) to establish rules for the administration of the Plan and to prescribe any forms required to administer the Plan.

9.03 Actions of the Employer. All determinations, interpretations, rules, and decisions of the Employer shall be conclusive and binding upon all persons having or claiming to have any interest or right under the Plan.

9.04 Delegation. The Employer shall have the power to delegate specific duties and responsibilities to officers or other Employees of the Employer of other individuals or entities. Any delegation by the Employer may allow further delegations by the individual or entity to whom the delegation is made. Any delegation may be rescinded by the Employer at any time. Each person or entity to whom a duty or responsibility has been delegated shall be responsible for the exercise of such duty or responsibility and shall not be responsible for any act or failure to act of any other person or entity.

9.05 Reports and Records. The Employer and those to whom the Employer has delegated duties under the Plan shall keep records of all their proceedings and actions and shall maintain books of account, records, and other data as shall be necessary for the proper administration of the Plan and for compliance with applicable law.

9.06 Finances. The costs of the Plan shall be borne as provided herein. For purposes of this Plan, Compensation reduction amount shall be deemed contributions by the Employer.

ARTICLE 10
AMENDMENTS AND TERMINATIONS

10.01 Amendments. The Employer may amend the Plan, in full or part, at any time and from time to time. Any such amendment shall be filed with the Plan Documents.

10.02 Benefits Provided Through Third Parties. In the case of any benefit provided pursuant to an insurance policy or other contract with a third party, the Employer may amend the Plan by changing insurers, policies, or contracts without changing the language f this Plan Document, provided that copies of the contracts or policies are filed with the Plan Documents and the Participants are informed as to the effects of any such changes.

10.03 Terminations. The Employer expects the Plan to be permanent, but necessarily must, and hereby does, reserve the right to terminate the Plan at any time. In the event of a Plan termination, Compensation reductions will cease. Thereafter, neither the Employer nor any of its Employees shall have any further financial obligations hereunder except such that have accrued up to the date of termination and have not been satisfied.

ARTICLE 11
MISCELLANEOUS

11.01 No Guaranty of Employment. The adoption and maintenance of the Plan shall not be deemed to be a contract of employment between the Employer and any Employee. Nothing contained herein shall give any Employee the right to be retained in the employ of the Employer or to interfere with the right of the Employer to discharge any Employee at any time, nor shall it give the Employer the right to require any Employee to remain in its employ or to interfere with the Employee's right to terminate his employment at any time.

11.02 Limitation on Liability. The Employer does not guarantee benefits payable under any policy or contract of insurance described herein, and any benefits payable thereunder shall be the exclusive responsibility of the insurer that issued such contract or policy.

11.03 Non-Alienation. No benefit payable at any time under this Plan shall be subject in any manner to alienation, sale, transfer, assignment, pledge, attachment, or encumbrance of any kind.

11.04 Applicable Law. The Plan and all rights hereunder shall be governed by the construed according to the laws of the State of North Carolina, except to the extent such laws are preempted by the laws of the United States of America.

11.05 Benefits Provided through Third Parties. In the case of any benefit provided through a third party, such as an insurance company pursuant to a contract or policy with such third party, if there is any conflict or inconsistency between the description of benefits contained in this Plan and such contract or policy, the terms of such contract or policy shall control.

A. Evette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

SALE OF PROPERTY - BALDWIN AVENUE: The City Manager advised the Council that an auction had been held at 10:00 A.M., Tuesday, June 18, 1991 for the sale of property located on Baldwin Avenue. The high bid was $300.00 with the purchaser to pay all cost involved in the transfer of property.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, the Council voted unanimously to accept the bid of $300.00 for property located on Baldwin Avenue.

PURCHASE OF PROPERTY - FIRST FEDERAL: Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to authorize the Mayor to sign contracts regarding the purchase of First Federal Bank property located on South Main Street.

ADJOURNMENT: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, the 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 27, 1991

The City Council for the City of Marion met in Special Session on Thursday night, June 27, 1991, at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Claudia Hill, Tax Collector; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, W.D.L.F. Radio; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M. Radio

GUEST PRESENT: Freddie Killough, Downtown Business Association; Bill Kehler, Kehler's City Food and Maple Leaf Lanes, 36 North Main Street; Wilbur Dalton, M & Supermarket, Highway 70 West; Bob Gaddy, Harvest Drive In, Highway 70 West; Lloyd Cowart, Boomer's Rhythm Center, Highway 70 West; E. L. Woody Cunningham, Superior Machine Company, Highway 70 West; Larry Grant, The Gent Shop, Highway 70 West; Richard Buchanan, The McDowell House, Highway 70 West; Glenda Bruner, Care Center, 505 Virginia Avenue; Bill Jordan, Care Center, 505 Virginia Avenue; Fred Butler, G.D.S.; Tom Winkler, G.D.S.; Jim Kalkwarf, G.D.S.; Woody Killough, Killough's Music & Loan, South Main Street.

1990 TAX RELEASES: Upon a motion by Councilman Little, seconded by Councilman Cross, the Council voted unanimously to approve the following tax releases:

REQUEST TO OPEN STREETS - MITCH GILLESPIE: The City Manager advised Council that the Street Committee had met concerning Mr. Mitch Gillespie's request to open two streets. One street is Church Street off Ellis Street. The other street is a continuation of Alabama Avenue.

The Street Committee recommended that Mr. Gillespie be authorized to open the streets to provide access to his property. Since Mr. Gillespie is only asking

permission to open the streets, it is recommended that he be permitted to do so at his own expense. If additional improvements are requested in the future, a petition can be submitted by the adjoining property owners.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, the Council voted unanimously to approve Mr. Gillespie's request.

COMMERCIAL GARBAGE COLLECTION: The City Manager presented Council with recommendations from the committee appointed to discuss commercial garbage collections by the City.

The committee recommended that the City continue picking up commercial garbage and charge for the service. Those merchants having a dumpster would be billed $1.00 per cubic yard for each pick-up to be a maximum of two pick-ups per week. Additional pick-ups would be $1.00 per cubic yard plus $10.00 for each pick-up. The City would bill the owner of the dumpster for the service on the owner's water bill once a month beginning with the first bill on August 1, 1991 for July service. All other merchants using garbage cans will be billed $4.33 per month for service. Service is to be limited to three (3) thirty-five gallon cans picked up twice per week. Any merchant requiring more service must either purchase a dumpster or contract with another merchant having a dumpster. All waste material must be placed in an approved container for pick up.

Upon a motion by Councilman Tyler, seconded by Councilman Little, the Council voted unanimously to adopt the recommendations of the committee. The motion adopted June 4, 1991, to discontinue commercial garbage collection service effective July 1, 1991 is rescinded.

USED TIRES: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council voted unanimously to charge $10.00 per pick up of used tires effective July 1, 1991.

INSURANCE PROGRAM: The City Manager presented a recommendation from the Insurance Committee to continue insurance coverage with McDowell Insurance Agency.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, the Council voted unanimously to continue insurance coverage with McDowell Insurance Agency.

RESIDENTIAL RECYCLING PLAN: The City Manager presented Council a curbside recycling proposal from G.D.S., Inc. for review and consideration. The plan proposes a once a week curbside pick up of materials which can be recycled for $2.10 per household per month. The contract would be for three years. The City would be paid the fair market value for the materials picked up.

The City Manager recommended the plan contingent upon the County paying one-half the cost for pick up which would be $1.05 per household. He suggested beginning the recycling plan effective January 1, 1992.

The City would be required to provide a container which costs approximately $5.00 each. The City Manager recommendation adding a small charge of $.50 to each City residential water bill until $5.00 is collected to pay for the container. New customers coming on the system could purchase their containers. A residence would not be limited to only one container. Additional containers could be purchased at cost.

Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to adopt the curbside recycling plan as proposed contingent upon the County paying one-half the cost of $1.05 per household to be effective January 1, 1992.

1991-92 BUDGET: Upon a motion by Councilman Little, seconded by Councilman Tyler, the Council voted unanimously to adjourn into Executive Session.

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

Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to adopt the following 1991-92 Budget:

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, 1991 and ending June 30, 1992 in accordance with the chart of accounts heretofore established by the City:

Administration	$ 283,400
Purchasing and Warehousing	45,350
Inspection & Community Development	83,400
Police Department	656,700
Fire Department	307,690
Public Works Administration	72,850
Fleet Maintenance	64,700
Street Department	520,100
Powell Bill	130,000
Sanitation	286,650
Cemetery	47,800
Recreation	25,000
Non-Departmental	124,550
TOTAL	$ 2,648,190

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Prior Year's Taxes	$ 45,000
Current Taxes	968,390
Inventory Taxes	157,710
Downtown Dev. Mun. Ser. Dist.	15,000
Tax Penalties & Interest	8,000
Privilege License Sales	15,000
Interest Earned	70,000
Rents and Concessions	8,000
Misc. Revenues	10,000
Utilities Tax	280,000
Intangibles Tax	44,000
Beer/Wine Revenue	20,800
Powell Bill Allocation	121,745
Sales and Use Tax	275,000
Sales Tax Refund	20,000
ABC Revenues	100,000
ABC Officer Revenues	7,500
Court Costs, Fees & Charges	2,400
Parking Violations	1,000
County Fire Protection	46,800
Cemetery Revenue	5,000
DOT Reimbursement - Curb Work	10,000
Garbage Fees	87,600
Gas Tax Refunds	8,000
Zoning Income - Inspection Fees	2,500
Maint. Traffic Control Devices	6,000
Cable TV Revenues	20,000
Sale of Surplus Equipment	
Transfer from W/S Fund	50,000
County Contribution - Recycling	12,600
Surplus Appropriated	230,145
TOTAL	$ 2,648,190

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, 1991 and ending June 30, 1992:

Principal and Interest on Sanitary Sewer Bonds	$ 90,750
Service and Miscellaneous Charges	1,250
TOTAL	$ 92,000

Section 4. It is estimated that the following revenues will be available in the Debt Service Fund for the fiscal year beginning July 1, 1991 and June 30, 1992:

Transfer from General Fund:	$ 92,000

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, 1991 and ending June 30, 1992 in accordance with the accounts heretofore approved for the City:

Utility Line Operations	$ 496,400
Filter Plant	334,100
Waste Treatment Plant	557,500
Non-Departmental	248,752
TOTAL:	$ 1,636,752

Section 6. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Fund Balance	$ 199,952
Interest Earned	12,000
Water Sales	450,000
Water Taps 15,000 Sewer Taps	5,000
Misc. Income	10,000
Cut-On Fees	3,000
Sewer Service	350,000

Sales and Use Tax Refund	200,000
Water System Development Charge	6,000
Sewer System Development Charge	10,000
Tank Truck Charges	500
Water Service Charge	170,000
Sewer Service Charge	180,000
Reimbursement - Septic Tank Charges	300
Reimbursement - Pretreatment	25,000
TOTAL	$ 1,636,752

Section 7. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Inventory (Supplies)	$ 204,500

Section 8. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Transfer from General Fund	$ 17,500
Transfer from W/S Fund	7,500
Purchase by Other Funds	180,000
TOTAL	$ 204,500

Section 9. The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Reserve for future appropriations:	$ 504,673

Section 10. It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 1991 and ending June 30, 1992:

Transfer from General Fund	$
Transfer from W/S Fund	6,473
Interest on Investments	28,200
Fund Balance Appropriated	470,200
TOTAL	$ 504,673

Section 11. There is hereby levied a tax at the rate of fifty-nine ($.59) per one hundred dollars ($100) valuation of property as listed for taxes as of January 1, 1991 for the purpose of raising the revenue listed as "Current Year 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 $170,972,910 and estimated rate of collection of ninety-six percent (96%). There is also hereby levied a tax at the rate of fifteen cents ($.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 $1,000.00 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 27th day of June, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

SURVEY BIDS - FIRST FEDERAL PROPERTY - SOUTH MAIN STREET: Upon a motion by Councilman Tyler, seconded by Councilman Little, the Council voted unanimously to accept the low bid as submitted by R. L. Greene Surveying & Mapping, Inc. for surveying the property of First Federal located on South Main Street.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

JULY 16, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, July 16, 1991, at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Robert Parker, Personnel Director; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, W.D.L.F. Radio Station; and Van McKinney, News Reporter, W.B.R.M. Radio Station.

GUEST PRESENT: Freddie Killough, Downtown Business Association; Ricky Honeycutt

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to approve the minutes of June 17, 1991; June 18, 1991; and June 27, 1991 meetings.

MARION DOWNTOWN BUSINESS ASSOCIATION - REQUEST TO CONDUCT ANNUAL SIDEWALK SALE: Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to approve a request from Marion Downtown Business Association to conduct a sidewalk sales August 1-3, 1991.

MARION DOWNTOWN BUSINESS ASSOCIATION - REQUEST FOR OFFICE SPACE: Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to allow the Marion Downtown Business Association to use office space vacated by the McDowell Merchants Association.

COMMUNITY CARE CENTER - INTENT AS TO CITY DESIGNATED RECIPIENT OF CONTRIBUTION: The City Manager presented a letter concerning contributions of the City of Marion to The Community Care Center.

Upon a motion by Councilman Little, seconded by Councilman Tyler, the Council voted unanimously that it was their intention that contributions be paid directly to the Community Care Center and not to Foothills Mental Health.

FIRST FEDERAL BUILDING - DECISION ON EXTENT OF PROPOSED IMPROVEMENTS TO THE BUILDING: The Council discussed in length financing and renovations of the First Federal building including the construction of a City Council Chamber.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, the Council voted unanimously to do only renovations necessary to the existing building. Work is to be done in-house. The construction of a City Council Chamber will be postponed until a future date.

The following were appointed to the Building Committee: Councilmen Joe Tyler and John Cross; J. Earl Daniels, City Manager; Alvin Callahan, Building Inspector; Robert Parker, Personnel Director and Bill Gilsdorf, Chief of Police.

ANNUAL CERTIFICATION OF FIREMEN: Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to approve the Certification of Firemen as follows:

STATE OF NORTH CAROLINA

DEPARTMENT OF STATE AUDITOR
FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND DIVISION
300 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-5903

ANNUAL CERTIFICATION OF FIREMEN

General Statutes, Chapter 58-86 requires that all certified fire departments certify annually to the North Carolina Firemen's Pension Fund a complete roster of its qualified firemen.

The following certification along with a complete roster of all acitve firemen* as of June 30 of each year must be submitted to the North Carolina Firemen's Pension Fund, 300 North Salisbury Street, Raleigh, North Carolina on or before July 31. Failure to submit this certification along with a complete roster will result in the loss of the death benefit provided by the State.

CERTIFICATION

We, the City Council in our capacity as the governing body of the City of Marion Fire Department, certify that we have examined and find that attached is a true and accurate list of all active firemen* of the City of Marion Fire Department, PO Drawer 547, County of McDowell, North Carolina 28752.

Signed: _____

Title: MAYOR

Date: 7-16-91

For Fire Department Chief Only

I, Arthur C. Edwards, Chief of the CIyt of Marion Fire Department, cerfity the attached roster is a ture and accurate list of all eligible firemen. (Eligible firemen are firemen who have met the required 36 hours of meetings and drills during the last calendar year (July 1 - June 30). In addition, the term "eligible firemen" shall mean those firemen who have joined the fire department within the calendar year and are in the process of completing the required 36 hours of meetings and drills).

_____
Fire Chief

_____
Date

ROSTER MUST BE ATTACHED WITH NAMES IN ALPHABETICAL ORDER.

*Firemen on authorized "Leave of Absence" are to be included on the roster. Whenever a new fireman is added to the roster during the year, his or her name should be forwarded to the Pension Fund Office immediately.

NORTH CAROLINA OFFICE OF THE STATE AUDITOR
FIREMEN'S PENSION FUND DIVISION
300 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-5903
(919) 733-3275
COMPLETE FIRE ROSTER LIST

LAST NAME	FIRST NAME	ADDRESS	SOC SEC NUMBER
425 Airport Rd	239-02-0678		
Brown	Fred	623 State St	240-46-3098
Cate	Lee	PO Box 13	242-13-9251
Crisp	Douglas	Bond Street	242-86-7797
Dark, III	R	100 Cresent Dr	587-27-9756
Depoyster	Terry	PO Box 1472	237-56-0350

Bradley Allen

Edwards	Bruce	693 Maple Ave	246-34-6695
Edwards	Arthur	26 Pulliam St	246-34-6695
Hall	Marvin	326 Hillcrest Dr	237-48-3220
Harris	Tom	1305 East Court	245-52-2760
Hollifield	James	W Court Food	240-46-3335
Hollifield	Millard	410 Woodland Dr	254-48-5402
Laughridge	John C.	215 S Garden St	244-04-1898
Laughridge	John M.	116 Greenwood Dr	239-80-7405
Mace	Dewitt	505 Miller Ave	245-44-7058
McCarthy	Roger	402 Rutherford Rd	241-88-7093
Milligan	Thomas	PO Box 1556	244-68-1106
Morris	Jimmy	401 Stroud St	245-08-7939
Nanny	Fredrick	923 Perry St	242-11-1035
Neal III	James	302 Hillcrest Dr	245-72-9325
Owenby	Kevin	217 Nix Creek Rd	245-27-8330
Parker	James	Rt 1 Box 18	242-90-1128
Poteat	Billy	151 McKinney Rd	239-72-2338
Poteat	Jerry	222 Highland Dr	244-66-3485
Poteat	Kenneth	900 Gilbert St	240-15-9682
Poteat	Kevin	222 Highland Dr	244-49-6470
Presnell	Charles	277 Worley Rd	238-82-9830
Price	Dennis	517 Reservoir Rd	245-68-8508
Reese	John	14 Vine St	242-82-7999
Smith III	William	107 Dogwood Lane	245-44-5503
Stevens	Jerry	Rt 1 Box 612	242-72-8781
Suttle	Charles	411 Stroud St	239-84-9781
Thomas III	Willard	PO Box 344	240-08-1296
Willis	James	625 Veteran's Dr	241-88-5758
Wilson	Bryan	109 Devonwood Dr	241-80-2625
Young	William	129 Lincoln Ave	245-72-8996

EXECUTIVE SESSION: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to adjourn to Executive Session.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

AUGUST 6, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, August 6, 1991, at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBERS ABSENT: Councilmen Robert Ayers and Angus Stronach.

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Lydia Carrington, News Reporter, The McDowell News; Van McKinney, News Reporter, W.B.R.M. Radio Station; and Cindy Byas, News Reporter, W.D.F.L. Radio Station.

GUEST PRESENT: Bill January, 515 Pinecrest Drive, Marion, North Carolina ; Pat Wingo, Post Office Box 953, Cornelius, North Carolina; Andy Wingo, Post Office Box 953, Cornelius, North Carolina; Sean Kuoster, 3055 Ferncliff Road, Charlotte, North Carolina; David Lamb, 6955 Old Oak Lane, Charlotte, North Carolina; Bill Dumbell, 3828 Fellsway, Charlotte, North Carolina; Emmanuel Brenez, LaFon, France; Joe Wilson, 2710 Meadowcliff Drive, Charlotte, North Carolina; Paul Edelman, 55520 Birchhill Road, Charlotte, North Carolina; David Hollar, 7223 Old Oak Lane, Charlotte, North Carolina; Matt Eury, 1308 Leolillie Lane, Charlotte, North Carolina; Ray M. Williams, 801 Swearingan Road, Charlotte, North Carolina; Derek R. Williams, 801 Swearingan Road, Charlotte, North Carolina; Adrium Connette, 3442 Oakdale Road, Charlotte, North Carolina; Jason Russell, 512 Woodlawn Road, Charlotte, North Carolina; Jason Saunders, 1732 Shoreham Drive, Charlotte, North Carolina; Jon Jophan, 8307 Country Downe Lane, Charlotte, North Carolina; Chuck Collins, Staghorn Court, Davidson, North Carolina; Casey Blackburn, 1018 McLaughlin Drive, Charlotte, North Carolina; Alan Sikes, 1336 Lurecliff Place, Fort Mill, South Carolina; Chris McQuinn, 1409 Pine Road, Charleston, South Carolina; Vance Elstrom, 10448 Surrey Court, Mint Hill, North Carolina; Jamie Miller, 8925 Bartlett Road, Charlotte, North Carolina; Omari W. Greene, 1704 Patton Avenue, Charlotte, North Carolina; Mike Jorghton, 2341 Jemby Place, Charlotte, North Carolina; Benji Hood, 5926 Matthews, Mint Hill Road, Charlotte, North Carolina; Stephen Kidd, 411 West Sunset Avenue, Charlotte, North Carolina; Nathan Reese, 1110 Crestmere Street, Charlotte, North Carolina; Stan Love, 700 Clayfield Court, Charlotte, North Carolina; Brian Roberts, 8910 Scarsdale Drive, Charlotte, North Carolina; Greg Frampton, 1722 Sunset Road, Charlotte, North Carolina; Charles Sumner, 221 Post Oak Road, Charlotte, North Carolina; Scott Taylor, 816 Judith Court, Charlotte, North Carolina; Gene Kidd, 411 West Sunset Drive, Charlotte, North Carolina; Allan Barnette, 17645 Beatties Fort Road, Charlotte, North Carolina; Milton Cornette, 3442 Oakdale Road, Charlotte, North Carolina; Craig E. Short, 3515 Foxridge Road, Charlotte, North Carolina; Jamie Redies, 4316 Britley Lane, Harrisburg, North Carolina; Roger Gerherbt, 6408 Woodshed Circle, Charlotte, North Carolina; David Borrellie, 3524 Caskllaine Drive, Charlotte, North Carolina; Mark Muckler, 3901 Sharon View Road, Charlotte, North Carolina; and Ronnie Farmer, 8341 Field Court, Charlotte, North Carolina.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Cross, those members of Council present voted unanimously to approve the Minutes of the July 16, 1991 meeting.

UTILITY PAYMENTS - LATE PENALTY - COMPLAINTS:

Complaint #1: The City Manager informed the Council that complaints had been received concerning the $5.00 penalty fee for not paying utility bills prior to 5 P.M. on the 15th of month.

The Utility Committee met to consider the complaints. It is their opinion that the policy is clear and proper notification has been given; therefore, the penalty should be charged in accordance with policy.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to accept the recommendations of the Utility Committee.

Complaint #2: The City Manager presented a request from Dr. Glen Davis for refund of late penalties in the amount of $15.00 to reconnect water service to his mother's residence.
She was in the hospital at the time her water service was disconnected.

The Utility Committee recommends that the penalty not be refunded since the customer is responsible for notification and/or payment.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to accept the recommendation of the Utility Committee.

RESIDENTIAL SEWER BLOCK - REQUEST FOR CITY TO PAY: The City Manager presented a letter to Council from Ms. Dianne S. Ray requesting reimbursement for plumbing bills for clearing the sewer lines.

Based on the information presented, the problem was in the sewer line from the residence. City forces did rod back from the manhole to the property line. Water that was backed up in the residence was water from the residence.

The Public Works Director advised that two ninety degree terra cotta fittings was broken allowing dirt and other debris into the line which caused the blockage.

The Utility Committee believes the City was not at fault and should not pay the plumbing bill.

A motion was made by Councilman Cross to accept the recommendations of the Utility Committee

Councilman Little abstained from voting due to a conflict of interest. Without the vote of Councilman Little, a quorum of the Council was not present.

Councilman Cross withdrew his motion. Discussion was tabled until the next regular meeting of the Council.

EMERGENCY SERVICES PERSONNEL RECOGNITION DAY - REQUEST TO USE COMMUNITY BUILDING BASEMENT WITHOUT CHARGE: Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to approve the use of the Community Building for the Emergency Services Personnel Recognition Day without charge.

EMERGENCY SERVICES PERSONNEL RECOGNITION DAY - DONATION BY CITY OF MARION: The City Manager presented a request for a donation in the amount of $250.00 by the City of Marion to be used for Emergency Services Personnel Recognition Day. Discussion continued.

A motion was made by Councilman Tyler to approve a donation in the amount of $250.00. Motion died for lack of second.

A decision was tabled until the next regular meeting of the Council.

ROAD - LADY MARIAN PLAZA: Mr. Bill January appeared before the Council to request that the City take over the road located behind the Crossbow International for maintenance purposes. He stated that persons wanting to sell property located on this road can not do so because it is not a City street.

The City Manager stated that the road varies in width from ten feet to nineteen feet. The road will not qualify for Powell Bill funds and will not benefit the City in any way.

Mr. January was advised that any request concerning this road should be directed to the property owner since it was a private road.

Mayor Clark stated that most of the home's excluding Westwood Chateau Condominiums needing the road, were located outside the City Limits. He asked Mr. January if the homeowners would petition for annexation. Mr. January said they probably would not since they would not sign a road maintenance agreement circulated by Mr. Guy Rabb.

The Mayor suggested they contact the County Commissioners and D.O.T.

GREAT MEADOWS, INC. AGREEMENT - REQUEST FOR CREDIT TOWARD UTILITY COSTS FOR SHOPPING CENTER: The City Manager presented a request from Mr. Sam Phillips that he be given credit for the amount of money contributed to the City for waterline installation toward the water tap fees for businesses in the McDowell Shopping Center.

Under the terms of an agreement dated August 28, 1973, Great Meadows, Inc. is entitled to water taps on the waterline installed through their property for residential purposes only up to the amount of their investment of $17,905.27 for a period of fifteen (15) years after which the City would have not obligation. A meter fee would be charged by the City for each connections. The waterline was installed by City forces and connected the waterline on Conley Road to the waterline at the McDowell High School.

The Utility Committee met to consider Mr. Phillips' request and the following recommendation was made:

(1) That the Agreement dated August 28, 1978 be voided.

(2) That Great Meadows, Inc. be credited with $17,905.27 for water and sewer tap fees and water and sewer system development fees for the new shopping center.

(3) That the developer or merchant pay a meter fee for each service at the rate set by the City.

(4) That the City will make no cash payment to the developer or any merchant.

(5) That all connection and/or development fees already paid shall not be refunded.

(6) That the agreement will run until August 28, 1993 and thereafter be void and the City will have no further obligation.

A motion was made by Councilman Little that the agreement remain as it was negotiated by all parties on August 28, 1978. Discussion continued.

Councilman Cross stated that he would like for the Utility Committee to be present during discussion of Mr. Phillips' request. Councilman Little withdrew his

motion. Mr. Phillips' request was continued to the next regular meeting of the Council.

RECREATION COMMISSION - APPOINT ONE MEMBER - THREE YEAR TERM: Appointment was continued to the next regular meeting of the Council.

PLANNING/ZONING BOARD - APPOINT ONE REGULAR MEMBER AND ONE ALTERNATE MEMBER: Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of the Council present voted unanimously to appoint Pat Genet as a regular member of the City of Marion Planning/Zoning Board. Mr. Genet will fill the unexpired term of Mr. C. Walter Morgan to expire January 31, 1993.

ORDINANCE - CITY WIDE SPEED LIMIT EXCEPT WHERE SPEED LIMIT IS POSTED OTHERWISE: Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted unanimously to adopt the following Ordinance:

CITY WIDE SPEED LIMIT

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

Section 1. That the Code of the City of Marion, North Carolina adopted the 8th day of January 1991 is hereby amended by deleting Section 18-91. SPEED LIMIT IN CITY LIMITS, in its entirety and inserting in lieu thereof a new Section 18-91. SPEED LIMIT IN CITY LIMITS, to read as follows:

Sec. 18-91. Speed limit in city limits.

Except where otherwise provided in this article, and as posted by appropriate speed limit sign on the effected street, it shall be unlawful to operate a vehicle in excess of twenty-five (25) miles per hour inside the municipal corporate limits. This limit shall be enforceable whether or not a sign is present on a particular street.

Section 2. This ordinance shall be in full force and effect upon its adoption.

Adopted this the 6th day of August, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

O-91-08-06-01

BUDGET ORDINANCE - AMENDMENT: Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the following Budget Ordinance Amendment:

1991-92 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 1991-92 as adopted by the City Council on the 27th day of June, 1991 is hereby amended as follows:

Section 1. General fund Revenues, Account Number 10-398-00, Contribution from Capital Reserve Fund is increased from $00.00 to $88,500.00 by transferring $88,500 from the Capital Reserve Fund, Account Number 75-400-00, Contribution to General Fund.

Section 2. General Fund Expenditures, Administration Department, Installment - Purchase, Account Number 10-420-82, is decreased from $30,500 to $00.00 by transferring $30,500 to Capital Outlay, Account Number 10-420-74.

Section 3. General Fund Expenditures, Fire Department, Installment - Purchase, Account Number 10-530-82 is decreased from $61,000 to $00.00 by transferring $61,000 to the Administration Department, Capital Outlay, Account Number 10-420-74.

Section 4. General Fund Expenditures, Administration Department, Capital Outlay, Account Number 10-420-74, is increased from $9,000 to $189,000 by transferring $30,500 from Administration Department, Account Number 10-420-82 and $61,000 from Fire Department, Account Number 10-530-82 and $88,500 from Capital Reserve Fund,

Account Number 75-400-00.

Section 5. 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 August, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

ADJOURNMENT: Upon a motion by Councilman Cross, 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

AUGUST 20, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, August 6, 1991, at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Bill Gilsdorf, Police Chief; Lydia Carrington, News Reporter, The McDowell News; Van McKinney, News Reporter, W.B.R.M. Radio Station; and Cindy Byas, News Reporter, W.D.L.F. Radio Station.

GUEST PRESENT: Maxine Mainer, 902 Airport Road, Marion, N.C.; Hazel McNeill, North Main Street, Marion, N. C.; Jeff Seagle, 112 1st. Street, E.M., Marion, N. C.; Brenda Lawing, 114 1st Street, E.M, Marion, N. C.; Les Donahue, 98 Oakwood Drive, Marion, N. C.; Amanda Donahue, 98 Oakwood Drive, Marion, N. C.; David Bradly, 211 Cresent Drive, Marion, N. C.; Keith Bradly, 425 Airport Road, Marion, N. C.; Darrell Baggett, Darrell Ford, Marion, N. C.; Freddie Killough, Downtown Business Association, Marion, N. C. and Woody Killough, Holly Hill Drive, Marion, N. C.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Little, the Council voted unanimously to approve the Minutes of the August 6, 1991 meeting.

THE MCDOWELL HOSPITAL - UPDATE ON ACTIVITIES: Mr. Les Donahue, President and Chief Executive Officer, appeared before the Council to present a status update of the McDowell Hospital.

He reported that changes in hospital Medicare reimbursements, reductions in hospital debt and the refinancing of debt at lower interest rates would result in lower prices for many hospital services.

REQUEST TO USE BASEMENT OF COMMUNITY BUILDING - WAGON MASTERS: The City Manager presented a request from the Wagon Masters for the use of the Community Building basement every Tuesday night for three months beginning in September.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, the Council

voted unanimously to approve the use of the basement of the Community Building by the Wagon Masters as requested. There will be a charge of $10.00 per night used.

REQUEST FOR HANDICAP PARKING SPACE - CLAY STREET - HUBBELL PREMISE WIRING, INC.: The City Manager presented a request from Hubbell Premise Wiring, Inc. for a handicapped parking space on Clay Street.

Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to approve the following ordinance for a handicapped parking space:

ORDINANCE
ESTABLISHING A HANDICAPPED PARKING SPACE
ON CLAY STREET

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

Section 1. When a sign is erected giving notice thereof, a Handicapped Parking Space shall be established on the east side of Clay Street, beginning at a point located one hundred twenty feet (120') south of the center of the railroad tracks and extending twenty-five feet (25') in a southern direction.

Section 2. No person shall park a motor vehicle, which does not have displayed in the appropriate location on said motor vehicle, a decal, sticker, tag, etc. issued by the state, signifying that one (1) or more persons in the motor vehicle are handicapped.

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.

ADOPTED this the 20th day of August, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

O-91-08-20

REQUEST TO HANG BANNER OVER MAIN STREET - MACA: The City Manager presented a request from the Foothills Community Theater to place a banner over Main Street for the following dates: September 19, 1991-October 6, 1991; November 21, 1991-December 8, 1991; February 20, 1992-March 8, 1992; and April 23, 1992-May 10, 1992.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted unanimously to approve the banner for the following dates: September 19, 1991-October 6, 1991; February 20, 1992-March 8, 1992; and April 23, 1992-May 10, 1992.

The request for November 21, 1991-December 8, 1991 was denied. The Council was concerned about the banner being installed with Christmas decorations on the same pole.

REQUEST TO USE COMMUNITY BUILDING - FRIENDS OF HEMP: Ms. Carolyn Letterman, Founder, appeared before the Council to request the use of the Community Building on Friday, November 1, 1991 from 7-12 P.M. for a meeting of the Friends of Hemp. She explained that 1st Amendment Rights materials, bumper stickers and T-shirts would be sold to help with the expenses of bringing the guest speaker, Mr. Jack Herer, H.E.M.P. (Help End Marijuana Prohibition) from Van Nuys, California.

Ms. Letterman explained that the Friends of Hemp was working on getting a tax-exempt status. She stated that all of the money received in the sale of the 1st Amendment Rights materials, bumper stickers and T-shirts would go back into the organization for operating expenses.

A motion was made by Councilman Little, seconded by Councilman Ayers, to approve the use of the Community Building as follows: speaker only, there would be no sale of any materials, and no controlled substance would be used in the Community Building or on the grounds by anyone. The vote was as follows: Ayes: Councilmen Ayers, Little and Stronach. Noes: Councilman Tyler and Cross.

COMPLAINT - GROWN UP LOTS: Mrs. Brenda Lawing, 114 1st Street, E. Marion, and Mr. Jeff Seagle, 112 1st Street, E. Marion, appeared before the Council to express their concern about the condition of property in their neighborhood.

Ms. Lawing complainted about property located at 213 2nd. Street, E. Marion. She stated that in some places the grass, weeds, and bushes was six feet tall. She has serious problems with rats and field mice coming in her house from this property.

Mr. Seagle stated that he had the same problems with property adjacent to him on 1st Street, E. Marion.

It was the general consensus of the Council to notify the owners of all properties over grown with weeds and grass of the ordinance governing the up keep of lots in the City of Marion.

Notices will be mailed Certified Mail. The Marion Police Department will deliver those in side the City Limits and within a one mile radius of the City.

ROBINSON ROAD - REQUEST FOR CITY TO TAKE OVER MAINTENANCE: The City Manager presented a request from Bradly Lumber Company that the City of Marion take over the maintenance of Robinson Road.

He explained that a small portion of Robinson Road is outside the Marion City Limits. The City cannot use tax money to maintain any road or portion of a road located outside the City Limits. In order for the City to maintain that portion of the road, it would be necessary for the City to annex that particular section which is outside the City Limits.

The City Manager explained that he had corresponded with Mr. Clarence Black, Trustee and Church Clerk of the Temple Baptist Church, concerning the annexation of that portion of their property located within the road right-of-way. He was advised by Mr. Black any decision concerning annexation of the Church property would have to be presented to the membership of the Church.

Ms. Hazel McNeill, Hwy. 70 West, stated that she was opposed to the City assuming responsibility for the maintenance of Robinson Road. She stated that it did not make sense for the City to take over a road already being maintained by D.O.T. that would be of no benefit to the City.

Mayor Clark stated that it would be a misappropriation of funds if the City spent money on roads outside the City Limits.

Councilman Little stated that either Temple Baptist Church would have to request annexation in order for the City to take over the maintenance of the road or Mr. Bradly should ask the D.O.T. to reduce the right-of-way along the back of the Rose's building.

Discussion followed. The City Manager will informed Mr. Black of the Council's position. It was suggested that Mr. Bradly contact the D.O.T. concerning reducing the right-of-way.

GREAT MEADOWS, INC. AGREEMENT - REQUEST FOR CREDIT TOWARD UTILITY COSTS FOR SHOPPING CENTER: The City Manager presented a request from Mr. Sam Phillips that he be given credit for the amount of money contributed to the City for waterline installation toward the water tap fees for businesses in the McDowell Shopping Center.

The City Manager stated that under the terms of an agreement between the City of Marion and the Great Meadows, Inc. dated August 28, 1973, Great Meadows, Inc. is entitled to water taps on the waterline installed through their property for residential purposes up to the amount of their investment of $17,905.27. The agreement is good for a period of fifteen years after which the City would have no obligation. A meter fee would be charged by the City for each connection. The waterline was installed by City forces and connected the waterline on Conley Road to the waterline at the McDowell High School.

The Utility Committee met to consider Mr. Phillips' request and the following recommendation was made:

(1) That the agreement dated August 28, 1978 be voided.

(2) That Great Meadows, Inc. be credited with $17,905.27 for water and sewer tap fees and water and sewer system development fees for the new shopping center.

(3) That the developer or merchant pay a meter fee for each service at the rate set by the City.

(4) That the City will make no cash payment to the developer or any merchant.

(5) That all connection and/or development fees already paid shall not be refunded.

(6) That the agreement will run until August 28, 1993 and thereafter be void and the City will have no further obligation.

Mayor Clark stated that he was on the Council in 1978 when the agreement was made. It was his feelings that the agreement should stand as it was drawn.

Councilman Stronach stated that jobs made available by the construction of a shopping center played a role in the approval of grants needed for the construction of the North Main Wastewater Improvement Project.

Councilman Little stated that he felt Mr. Phillips had benefited from the waterline being installed on his property and the conditions were clear in the agreement.

Councilman Cross stated that he was hesitant to negate any agreement that he was not a part of making.

A motion was made by Councilman Stronach, seconded by Councilman Tyler to accept the recommendations of the Utility Committee on the condition that Mr. Phillips would be agreeable to void the agreement dated August 28, 1973. The vote was as follows: Ayes: Councilman Ayers, Tyler and Stronach. Noes: Councilman Cross and Little.

RESIDENTIAL SEWER BLOCK - REQUEST FOR CITY TO PAY: Discussion was tabled to the September 3, 1991 meeting of the Council at the request of the complainant.

EMERGENCY SERVICES PERSONNEL RECOGNITION - DONATION REQUEST: Upon a motion by Councilman Cross, seconded by Councilman Little, the Council voted unanimously to approve a $250.00 donation to the Emergency Services Personnel Recognition Committee.

RECREATION COMMISSION - APPOINTMENT OF ONE MEMBER - 3 YEAR TERM: Discussion was continued to September 3, 1991 meeting.

ZONING VIOLATION - PROPOSED LEGAL ACTION ON ENFORCEMENT: Mrs. Lovina Smith, Zoning Administration, advised the Council that Mr. Jimmy Walker, 152 Park Avenue, was in violation of the Marion Zoning Ordinance in that he had constructed a fence without first securing a building permit and that the fence was not located on his property based on the survey presented.

She stated that Mr. Walker had been notified that he was in violation. The deadline for the fence to be brought into compliance had expired. The matter was referred to the City Attorney. The date for compliance with City Codes setforth in correspondence from the City Attorney to Mr. Walker has also expired.

It was the general consensus of the Council for the City Attorney to take appropriate action against Mr. Walker.

POLICE OFFICER FEDERAL "BILL OF RIGHT": Chief Gilsdorf requested that the Council voice their opposition the Senate anti-crime bill, Police Officers' Bill of Rights, containing provisions to preempt the state and local law, policies, and procedures that currently govern a law enforcement agency's internal investigation of allegations that a police officer failed to perform the duties of his or her position in a satisfactory manner.

Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to voice their opposition of the bill by letter.

BID - ONE TON TRUCK WITH UTILITY BODY: Upon a motion by Councilman Little, seconded by Councilman Stronach, the County voted unanimously to accept the bid of Darrell Ford, the seconded lowest bid, for a one ton truck with utility bed. Darrell Ford guaranteed the date of delivery whereas the lowest bidder could not. The Bid Specifications stated that a specific delivery date must be specified or the bid cannot be accepted. Bids which say "as soon as possible" will not be accepted (Item #16 on Instructions to Bidder).

EXECUTIVE SESSION: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, the Council voted unanimously to adjourn to Executive Session.

RECONVENE IN REGULAR SESSION: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, the Council voted unanimously to reconvene in Regular Session.

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

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

SEPTEMBER 3, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, September 3, 1991, at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. Radio Station; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mrs. Brenda Benge, B & Used Parts, 180 McKinney Road, Marion, N.C.; Jack Martin, 480 Apache Path, Marion, N. C.; Ms. Dianne Ray, 134 Lincoln Avenue, Marion, N. C.; Fred R. Koon, 338 Morgan Street, Marion, N. C.; Con Dameron, Rogers/Dameron Assoc., Architects, 6 Wall Street, Asheville, N. C.; Tommy Boyd, P. O. Box 188, Marion, N. C.; Freddie Killough, Downtown Business Association; and Woody Killough, Killough's Music & Loan, South Main Street, Marion, N. C.

MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cross, the County voted unanimously to approve the Minutes of the August 20, 1991 meeting.

REQUEST TO HANG BANNER - MCDOWELL COUNTY EMERGENCY PERSONAL APPRECIATION WEEK: The City Manager presented a request from the Steering Committee of the McDowell County Emergency Personal Appreciation Week to place a banner over Main Street September 13, 1991 through September 30, 1991.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, the Council voted unanimously to approve the request.

RESIDENTIAL SEWER BLOCK - REQUEST FOR CITY TO PAY - REPORT FROM THE UTILITY COMMITTEE: Ms. Dianne Ray appeared before the Council to request reimbursement for plumbing bills to clear a blockage in the sewer line serving her residence.

Based on information from City employees, the problem appeared to be two ninety degree terra cotta fittings that were broke which allowed dirt and other debris into the line causing the blockage.

Mr. Jack Martin, plumber with Buckner Plumbing, stated that he found the blockage in the ninety degree turns under the asphalt street at Ms. Ray's property.

It was recommended by the Utility Committee that the City pay one-half of the bills totaling $249.00 as submitted by the plumbing firms.

Councilman Little abstained from voting due to a conflict of interest.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, the Council voted unanimously to pay the bills totaling $249.00 as presented.

RECREATION COMMISSION - APPOINT ONE MEMBER - 3 YEAR TERM: Upon a motion by Councilman Cross, seconded by Councilman Ayers, the Council voted unanimously to appoint Lewis Erskine to the Recreation Commission for a three year term. Said term to expire September 1, 1994.

ROCIC (REGIONAL ORGANIZED CRIME INFORMATION CENTER) - POLICE COMMITTEE RECOMMENDATION: Upon a motion by Steve Little, seconded by Angus Stronach, the Council voted unanimously to approve application by the Marion Police Department to the Regional Organized Crime Information Center.

TRAFFIC CODE UPDATE - ORDINANCE - LAIL/OLD WEST HENDERSON STREETS: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to adopt the following ordinance:

AN ORDINANCE ESTABLISHING NO PARKING ZONES ON LAIL STREET, NO PARKING AND ONE HOUR PARKING ON OLD WEST HENDERSON STREET, AND LOCATING STOP SIGNS ON LAIL STREET

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

Section 1. When signs are erected or curbs are painted yellow giving notice

thereof, no person shall park a vehicle in the following areas:

(a) The north side of Lail Street between West Henderson Street and Old West Henderson Street.

(b) The south side of Lail Street for a distance of ninety-five feet (95') in a western direction from the curb-line on the east side of West Henderson Street.

(c) The south side of Lail Street for a distance of forty-one feet (41') in an eastern direction from the curb-line on the east side of Old West Henderson Street.

Section 2. When signs are erected or curbs painted yellow giving notice thereof, no person shall park a vehicle on the east side of Old West Henderson Street for a distance of twenty-five feet (25') in a southern direction from the curb-line on the south side of Lail Street.

Section 3. When signs are erected giving notice thereof, no person shall park a vehicle for a period of time longer than one (1) hour on the east side of Old West Henderson Street, from a point twenty-five feet (25') south of the curb-line on the south side of Lail Street, for a distance of three hundred thirty five feet (335') in a southern direction.

Section 4. When a STOP sign is erected giving notice thereof, the driver of every vehicle traveling east on Lail Street shall come to a complete stop at a clearly marked stop line or at the point nearest the west curb-line of West Henderson Street, to make sure traffic is clear before proceeding into the intersection.

Section 5. When a STOP sign is erected giving notice thereof, the driver of every vehicle traveling west on Lail Street shall come to a complete stop at a clearly marked stop line or at the point nearest the east curb-line of Old West Henderson Street, to make sure traffic is clear before proceeding into the intersection.

Section 6. Any person who shall violate or fail to comply with this ordinance shlal be guilty of an offense and upo conviction shall be punished by a fine not to exceed fifty dollars ($50.00) or by imprisonment not to exceed thirty (30) days.

Section 7. All ordinances in conflict with this ordinance are hereby repealed.

ADOPTED this the 3rd day of September, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

RECREATION BUILDING - PRESENTATION OF PROPOSED MODEL: Mr. Tommy Boyd, representing the Recreation Commission, and Mr. Con Dameron, Rogers/Dameron Associates, appeared before the Council to present a scale model of the proposed building to replace the structure damaged by fire.

Mr. Boyd indicated that the Recreation Commission was considering omitting a portion of the model presented which would house the gymnastic department. He suggested also omitting air conditioning to save on expense.

Councilman Ayers stated that he understood that **all** money received from the insurance company would be put in the replacement of the building. It was the general consensus of the Council that this was agreed on by all governing boards of the commission.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

SEPTEMBER 27, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, September 27, 1991, at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Van McKinney, News Reporter, W.B.R.M. Radio Station; Lydia Carrington, News Reporter, The McDowell News; and Cindy Byas, News Reporter, W.D.L.F. Radio Station.

GUESTS PRESENT: Stephen A. (Tony) Moore, N.C.D.O.T., Marion, N. C.; William D. Smart, N.C.D.O.T., Asheville, N. C.; Brenda Benge, B & B Used Parts, 180 McKinney Road, Marion, N. C.; and Freddie Killough, Downtown Business Association.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Council voted unanimously to approve the minutes of the September 3, 1991 meeting.

DOT - DIVISION ENGINEER - MR. BILL SMART: Mr. Bill Smart, Division Engineer, Asheville, N. C., and Mr. Tony Moore, District Engineer, Marion, N. C., was present to answer questions from the Council concerning future road improvements.

Mr. Smart is to return to Marion at a later date to meet with the Street Committee.

B & B USED PARTS - REQUEST FOR SALVAGE MATERIALS AT OLD WASTE TREATMENT PLANT: The City Manager presented a request from Mr. Benge, owner of B & B Used Parts, for salvaged items being stored at the old waste treatment plant.

Mr. Glen Sherlin, Public Works Director, informed the Council that there were four scraped vehicles and four or five scraped waste containers.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to authorize Mr. Benge to remove the items listed above. Removing said items will be done under the supervision of a City crew.

REQUEST TO HANG BANNERS:

(1) MOUNTAIN GLORY FESTIVAL: September 30, 1991 - October 14, 1991
(2) WEST MARION PTO: October 7, 1991 - October 21, 1991
(3) NATIONAL 4-H WEEK: October 4, 1991 - October 9, 1991
(4) HOMECOMING FESTIVAL: October 7, 1991 - October 14, 1991

The City Manager advised the Council that these requests had been received in the order as listed. He suggested that request be handled on a first come, first served basis since only two banners could be displayed at one time.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to approve the following request:

(1) MOUNTAIN GLORY FESTIVAL: September 30, 1991 - October 14, 1991
(2) WEST MARION PTO: October 7, 1991 - October 21, 1991

RECYCLING AGREEMENT - GDS: Upon a motion by Councilman Stronach, seconded by Councilman Little, the Council voted unanimously to table action at this time.

MOVE TO NEW OFFICES - ANNOUNCEMENT: The City Manager announced that City Administrative Offices will open at 260 South Main Street on Monday, September 30, 1991.

CAMERA & ALARM SYSTEM: The City Manager informed the Council that the camera and alarm system had been removed from the City Administrative Building located at 260 South Main Street by an individual representing the Diebold Company. He stated that it was his understanding that this equipment was to remain in the building.

He stated that he had talked with the man who removed the equipment and was advised that he would put the alarm system back but he needed the camera equipment.

Upon a motion by Councilman Little, seconded by Councilman Stronach, the Council voted unanimously to ask that the full alarm system be returned and installed.

RECREATION BUILDING: Mayor A. Everette Clark, Councilmen Robert Ayers and John Cross, and the City Manager will meet with City representatives on the Recreation Commission to discuss the use of **all** insurance money in the rebuilding of the recreation building.

STREET TREES - DISCUSSION: There was a discussion concerning the replacement of the Bradford pear trees along Main Street with another type of tree. Action was tabled until a later date.

NO SMOKING POLICY: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to adopt a "NO SMOKING" policy for the new administrative office building effective September 30, 1991.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 8, 1991

The City Council for the City of Marion met in Regular Session on Tuesday, October 8, 1991 at 7:00 P.M. in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Bill Gilsdorf, Chief of Police; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator Water Filter Plant; Freddie Killough, Downtown Business Association; Woody Killough, Downtown Business Association; Van McKinney, News Reporter, W.B.R.M.; Cindy Byas, News Reporter W.D.L.F.; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. and Mrs. Paul Lingerfelt.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the September 17, 1991 meeting.

MRS. VIRGINIA LINGERFELT - MOTHERS AGAINST DRUNK DRIVING: Mrs. Lingerfelt appeared before Council and extended an invitation for members of Council to help the "MADD Dog" give out candy during the Mountain Glory Festival.

Mrs. Lingerfelt stated that she would like to thank Council for their support in the past year and to report that there were no arrests for drunk driving during last New Year in Marion.

Mrs. Lingerfelt stated that their organization would like to purchase two video cameras for use in the Police Department and Sheriff Department for drunk driving cases. The video camera would mount on the dash of the car, but would be removable and would be used to tape persons who were arrested for DWI. She stated that some of the places in the state did not want the cameras and she would like to know if the City would object to using the camera before it was purchased.

Councilman Little stated that he felt that use of the camera could save unnecessary court time.

Councilman Stronach asked if the taping would be a violation of the person's rights. He was informed that it would not violate their rights. The Police Chief stated that persons are currently video taped during questioning, but the tapes had not been used as evidence.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to accept the offer from MADD to furnish the Police Department with a video camera to be used during DWI arrests.

REPORT - STREET COMMITTEE - MR. BILL SMART: The City Manager stated that the Street Committee had met with Mr. Bill Smart, Division Engineer and discussed several projects that needed attention around town. He stated that a turn lane at The McDowell Hospital was under study at this time and he would report on it later. He stated that funding had been approved for a signal light at the exit ramp at Sugar Hill road, however, the funds would not be available until December.

Mayor Clark stated that he had not asked, but he would like to request a study to determine if the City could allow left turns from Main Street and angle parking on Main Street since the By-Pass was open.

Councilman Little stated that he would like to see left turns be allowed from Montevista now that the bank had been partially removed. This matter was referred to the Street Committee for a recommendation.

Mayor Clark stated that a number of large trucks were still coming through the downtown area eventhough the By-Pass was opened. He stated that he received several complaints each week. Mr. Woody Killough stated that the town of Rutherfordton had passed an ordinance requiring all tractor/trailers to bypass town. Mayor Clark stated that this procedure had been explained to him and he was advised that if the City maintained the street, they could require trucks to by-pass town, however, if the street was state maintained, it would be difficult if not impossible.

TEMPLE BAPTIST CHURCH - ROBINSON ROAD: The City Manager presented a letter from Mr. Clarence Black, Clerk of Temple Baptist Church. The letter stated that the Church had voted to leave the property as is and not petition the City for annexation of any part of their property.

The City Manager stated that this property could not be forcefully annexed. He stated that he had also received calls from two residents of Robinson Road who did not wish for the City to take over maintenance of the road.

HOUSE NUMBERS - ORDINANCE: The City Manager stated that the ordinance requiring house numbers on buildings in the City came into effect on June 30. He stated that at this time, there were quite a few residences and businesses that did not have numbers.

The Police Chief stated that recently an officer could not locate a residence and had to try to get directions. He stated that he never did locate the residence.

Mayor Clark stated that maybe a Civic Club or the Boy Scout Troop would like to go door to door and sale numbers to these individuals or businesses.

Councilman Stronach asked if there was any idea of the number of residences or businesses that did not have numbers. The Police Chief stated that from the Council Chamber to the Post Office, thirty-three buildings did not have numbers and he would estimate approximately eight hundred residences of two t not have numbers.

The Police Chief asked permission to give a warning with five days to comply to residences or businesses they were called to that did not have a street number. He stated that they could not afford to go to each house or business and write citations for the building no location. Council agreed that this would help the situation.

Ms. Freddie Killough stated that if the Boy Scouts were not receptive of the idea, that she had used the elementary schools in town to help with various projects. She stated that each child could take their own neighborhood or block to help with the numbers.

ROOF - PROBLEMS - ADMINISTRATIVE OFFICE: The City Manager stated that when the City began looking at the new office building, he had noticed water in one of the light fixtures. He had been advised that there had been a leak, but it had been repaired. He stated that with the recent rains, it was discovered that the leak had not been repaired.

The City Manager stated that an approximate cost for replacement would be $11,000.00. He stated one local roofer recommended a new rubber type material for the flat roof.

Councilman Stronach stated that he would like to determine that there was another local roofer in the area that did this type of work before the bid was given.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council gave the City Manager the authority to proceed with the project.

ORDINANCE - BUILDING INSPECTION FEES: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following ordinance:

ORDINANCE
BUILDING INSPECTION FEES

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

Section 1. The City shall charge all general contractors a five dollar ($5.00) fee for the construction or alteration of a "single-family residential dwelling unit," including townhomes and condominium units. The fee will be collected for each dwelling unit and will be in addition to the City's regular building permit fee.

Section 2. The City will forward four dollars ($4.00) of each fee collected to the North Carolina Licensing Board for General Contractors.

Section 3. These fees shall be collected unless and until the North Carolina Licensing Board for General Contractors suspend collection of the fees.

ADOPTED this the 8th day of October, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-91-10-8-1

ISOTHERMAL PLANNING & DEVELOPMENT COMMISSION - RESOLUTION -RELEASE OF FUNDS: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to adopt the following Resolution:

RESOLUTION
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, the 1991 General Assembly recognized this need through the appropriation of $864,270 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 $48,015 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, provide staff and other assistance to the Region C Certified Development Corporation including start-up, training, and ongoing services, 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, $914.32 to the Isothermal Planning and Development Commission at the earliest possible time in accordance with the provisions of Chapter 689, House Bill 83, Section 19 of the 1991 Session Laws.

ADOPTED this the 8th day of October, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Resolution Number: R-91-10-8-1

TAX REFUNDS: The City Manager presented a memorandum from Ms. Claudia Hill, Tax Collector requesting the following Tax Refunds:

1. G. E. Capital Corporation - The corporation paid City taxes in the amount of $111.64 for equipment they lease to Larry Greene Surveying. Larry Greene also paid the taxes in the amount of $111.64. Request is for a refund to G.E. Capital Corporation in the amount of $111.64.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to refund G. E. Capital Corporation in the amount of $111.64 for taxes overpaid.

2. Rajanikant J. Patel - Thrifty Court Motel: Mr. Patel over listed personal property by $47,353.00. He paid the total bill of $338.38 August 29, 1991. Mr. Patel has requested a refund of $279.38 for the overlisting.

A discussion followed. Council was in agreement to take no action on this refund request until an explanation of the personal property in question had been received.

3. Mr. John Cross: Mr. John Cross has requested a refund in the amount of $342.92 for property that was incorrectly billed and a release of the current bill. Mr. Cross has been paying the taxes on the property for a number of years and has discovered that eighty percent of the property is located outside the City Limits.

Mr. John Cross asked to be excused from voting since he had a direct interest in the property.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council except Councilman Cross voted unanimously to refund Mr. Cross in the amount of $342.92 for taxes billed in error.

4. Doris Hill - Agent for Guy Kirby III and Bonnie Kirby Jones: Ms. Hill has requested a refund for property owned by Mr. Kirby and Ms. Jones located on West Court Street. The County Tax Office has advised that the property was assessed correctly and no refund was due.

No action was taken on this refund.

ORDINANCE - CROSS CONNECTIONS TO WATER SYSTEM: Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following ordinance:

ORDINANCE
REGULATING CROSS-CONNECTIONS WITH THE MARION WATER SYSTEM

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 firm or corporation to connect any private well or water supply to the City of Marion water system.

Section 2. If it is discovered that any private well or water supply is connected to the Marion water system, the owner and/or occupant of the premises shall be advised to immediately disconnect the private system.

Section 3. If the owner or occupant refuses or fails to have the private well or water supply disconnected, the Public Works Director shall have the water meter removed and disconnect any city sewerline serving the premises.

Section 4. Prior to services being re-stored, the owner and or occupant shall pay the entire cost for removal and replacement of the water meter and disconnection and reconnection of any sewerline.

Section 5. The following conditions must be met when an elevated tank or ground storage reservoir is filled from the City of Marion water system:

a. If a covered ground reservoir or covered elevated storage tank is used, an approved reduced pressure back-flow preventor or an approved double check valve assembly may be used. The back-flow prevention device shall be installed in such a manner as to afford adequate protection and shall be easily asscessible and shall include all necessary pressure gauges and drains for testing. Gate valves shall be installed in the line at both ends of the back-flow prevention device. All materials and equipment must be approved by the City in advance of installation.

b. If an uncovered ground reservoir or uncovered elevated storage tank is used, a complete physical break shall be provided between the reservoir or elevated tank and the Marion water system. The physical break between the inlet pipe and the top or overflow rim of the reservoir shall be at least twice the diameter of the inlet pipe.

ADOPTED this the 8th day of October, 1991.

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

Ordinance Number O-91-10-8-2

OPEN HOUSE - DISCUSSION: The City Manager stated that he felt that the City should have an Open House for the new building on Main Street. He stated that there were a few things that needed to be done before the Open House. He stated that a Saturday would be the best time for such an event.

Council was in agreement to have the Open House for the building, however a date was not set.

REQUEST - CONNECT TO CITY SEWER SYSTEM - MR. TILLMAN JONES: The City Manager presented a request to Council from Mr. Tillman Jones of Forsythe Street to connect to the City sewer system. Mr. Jones has gotten permission from the Department of Transportation and the surrounding neighbors for right-of-ways for placement of the line.

The City Manager stated that the Public Works Director had advised that the road leading to the property had already been cut and there was nothing for the City to do except make the connection. He stated that Mr. Jones would have to pay outside rates and must maintain the line to the connection.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to refer the matter to the Utility Committee and if they approved the connection to proceed.

RECREATION COMMISSION - BID OPENING - NEW FACILITY - ACADEMY AND FORT STREETS: The City Manager stated that there had been a misunderstanding in the bid packets concerning the fire regulations for the roof for the new facility and the bid opening had been delayed for one week. He asked if Council would like to meet in Joint Session this week or wait until after the bid opening.

A short discussion followed. Council agreed to request a Joint Meeting after the bid opening.

WATER SAMPLES - REPORT: Mayor Clark asked Mr. Buck Byrd if he had received a report from the State for the samples at the Water Filter Plant. Mr. Byrd advised that he had not received word from Raleigh, however, the samples now looked good but he was still adding high levels of chlorine to the water.

DOWNTOWN BUSINESS ASSOCIATION - RELOCATION: Ms. Freddie Killough stated that the Downtown Business Association had been offered a suite of offices downtown on the top floor of the Drug Rite Building. Ms. Killough stated that her office would be relocating to this area in the next few weeks. She stated that Ms. Donna Stevens and the Clean County Sytem would also be moving to this location.

Ms. Killough asked if she could use City crews to move her desk, two files and a bookcase to the new location. Council had no objections to helping her move.

POLICE DEPARTMENT - REPORTS: The Police Chief reported the following to Council:

1. Effective October 1, 1991, the City Council may designate ordinance maximum fines to $500.00 each. He stated that he was unclear if each ordinance had to be amended individually or if a "coverall" ordinance could be adopted. He stated that the current fine was $50.00 or thirty days in jail.

2. The Senior Center had requested that the Police Department present a monthly program for topics relating to concerns that the elderly might have such as scams during the holidays. He asked if Council would have any objections to an officer presenting such programs. There were no objections.

3. The Police Chief stated that he would like to design a "ride along" program to demonstrate what the officer sees and how he reacts. He stated that such a program would help bring the communities and the police department together. He stated that he did not want to spend time trying to develop such a program if Council would not be receptive to the idea. He was advised to develop the program for the Police Committee and if they felt the program would be reasonable, they would present it to Council.

EXECUTIVE SESSION - POSSIBLE LEGAL MATTER AND PERSONNEL MATTER: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to go into Executive Session to discuss a possible legal matter and a personnel matter.

Upon a motion by Councilman Stronach, seconded by Councilman Little, 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

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

October 22, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, October 22, 1991 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; Glen Sherlin, Public Works Director, Aaron Adams, Street Superintendent; Arthur Edwards, Fire Chief; Bill Gilsdorf, Chief of Police; Roger Carter, Chief Mechanic; Mack Laughridge, Fire Department; Tom Milligan, Assistant Fire Chief; Charlie Presnell, Fire Department; Jimmy Morris, Fire Department; Jim Neal, Fire Department; John Reese, Fire Department; Debi Laughridge, Administration Office; Cindy Byas, News Reporter, W.D.L.F.; Van McKinney, News Reporter, W.B.R.M.; and Lydia Carrington, News Reporter, The McDowell News.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve the minutes of the October 8, 1991 meeting.

SCOTT HUSKINS - REQUEST CITY PAY FOR CAR DAMAGES: The City Manager presented a request from Mr. Scott Huskins to repair damages to his vehicle. The request included three estimates for repairs. Said damages were caused from a cable falling that supported a banner hanging over Main Street. The cable fell most likely due to high winds putting pressure on a turn-buckle causing it to snap and the cable fall.

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

unanimously to reimburse Mr. Huskins $441.50, the amount of the low estimate.

REQUEST TO PLACE BANNER - NCAE: The City Manager presented a request from Ms. Debra Davis, President, McDowell County NCAE to place a banner over Main Street November 17 through November 23 for American Education Week.

The City Manager asked Council if they would like to establish a policy concerning the owner of the banner having responsibility in the event a person or vehicle was injured due to the placement of the banner. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to give permission to NCAE to hang the banner as requested and to leave the policy as it is regarding banners.

TAX REFUND - MR. R. PATEL - THRIFTY COURT MOTEL: The City Manager presented a memorandum from Mrs. LuAnn Ellis, Deputy Tax Collector concerning the tax refund request from Mr. Patel for Thrifty Court Motel. The memorandum stated that a clerical error was made in business listing. The amount depreciated was the amount used to calculate the tax rather than the actual depreciated value of the property.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to refund Mr. Patel in the amount of $324.37 for incorrect taxes due to a clerical error in Business Listing of McDowell County.

MONTEVISTA AVENUE - LEFT TURNS TO MAIN STREET - STREET COMMITTEE RECOMMENDATION: The Police Chief stated that his department had conducted several types of studies at the intersection of Montevista Avenue and North Main Street. He stated that there was still a very heavy traffic load in this area and now an additional lane of traffic entering from Logan Street. He stated that eventhough the visibility had improved, and he was sure that left turns could be made at times, he would not feel comfortable with recommending that left turns be allowed.

Councilman Cross stated that he had talked to several persons in the neighborhood and they did not want left turns from Montevista into North Main allowed.

Councilman Tyler stated that he did not wish for the ordinance to be changed either. He stated that living in the area himself, there was a high volume of traffic and most of the vehicles were traveling over the speed limit.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to leave the ordinance as it is - prohibiting left turns from Montevista Avenue into North Main Street.

FIRE INSPECTOR - APPOINTMENT AND OATH OF OFFICE - MR. JOHN MACK LAUGHRIDGE: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to appoint Mr. John Mack Laughridge as Fire Inspector for the City of Marion.

Mayor A. Everette Clark administered the Oath of Office to Mr. Laughridge. The Oath is attached to and made a part of these minutes.

FIRE INSPECTOR - APPOINTMENT AND OATH OF OFFICE - MR. THOMAS S. MILLIGAN: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to appoint Mr. Thomas S. Milligan as Fire Inspector for the City of Marion.

Mayor A. Everette Clark administered the Oath of Office to Mr. Milligan. The Oath is attached to and made a part of these minutes.

SAFETY DIRECTOR - APPOINTMENT AND OATH OF OFFICE - MR. THOMAS S. MILLIGAN: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to appoint Mr. Thomas S. Milligan as Safety Director for the City of Marion.

Mayor A. Everette Clark administered the Oath of Office to Mr. Milligan. The Oath is attached to and made a part of these minutes.

FINANCE REPORT: The City Manager stated that there was a copy of the latest financial statement included with the agenda. He stated that the revenues were up to date, however, the expenditures were only actual expenditures and did not include the amounts for items ordered.

A short discussion followed.

BUDGET AMENDMENT - GENERAL FUND: Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adopt the following Budget Amendment.

1991-92 BUDGET ORDINANCE
AMENDMENT

BE IT ORDAINED by the City Council for the City of Marion, North Carolina that the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 1991-92 as adopted by the City Council on the 27th day of June, 1991, and as amended on August 6, 1991, is hereby amended as follows:

Section 1. General Fund Revenues, Account Number 10-399-00, Surplus Appropriated is increased from $230,145. to $245,145. by a supplemental appropriation of $15,000.

Section 2. General Fund Expenditures, Administration Department, Salaries, Account Number 10-420-02 is increased from $131,400. to $141,400.

Section 3. General Fund Expenditures, Administration, Department, FICA, Account Number 10-420-03 is increased from $8,200. to $8,900.

Section 4. General Fund Expenditures, Administration, Department Retirement, Account Number 10-420-05 is increased from $9,100. to $9,700.

Section 5. General Fund Expenditures, Administration Department, Insurance, Account Number 10-420-06 is increased from $7,400. to $8,400.

Section 6. General Fund Expenditures, Administration Department, Capital Outlay, Account Number 10-420-74 is increased from $189,000. to $191,700.

Section 7. 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 22nd day of October, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

EMPLOYEE LONGEVITY CHECKS: The City Manager stated that an amount had been set aside in the budget for the longevity checks. He stated that the checks were computed as one days pay for each complete year's service plus one week's pay and one dollar per month for each month of service past five years. He stated that the checks were normally disbursed during November so the employees could do their Christmas shopping before the rush.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to approve the Longevity Checks as recommended.

CHRISTMAS TURKEYS: The City Manager stated that in the past turkeys had been given to the employees for Christmas. He stated that the City could get a better price on the turkeys at Thanksgiving rather than waiting until Christmas.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to give City employees turkeys for Christmas.

COUNCIL ANNUAL CHRISTMAS DINNER - DATE - TIME - LOCATION: The City Manager stated that a date, time and location needed to be chosen for the annual Christmas Dinner.

It was suggested that the dinner be held on Tuesday, December 17 at Little Sienna or The China Inn.

ANNUAL COUNCIL RETREAT - DATE - TIME - LOCATION: The City Manager stated that a date, time and location needed to be set for the Annual Council Retreat. He stated that he had received information from Catallochee Ranch in Maggie Valley or would Council prefer to go to Boone.

Council agreed to have the Retreat January 11 and 12 and asked that the City Manager get prices for Catallochee Ranch.

SMOKING POLICY - MARION COMMUNITY BUILDING: Councilman Little stated that he was prepared to make a motion to prohibit smoking at the Marion Community Building.

Councilman Stronach stated that he was not comfortable with prohibiting smoking at the Community Building. He stated that he did agree that smoking was a bad habit, however, the building was used by so many different groups that it would be hard to prohibit smoking. He suggested that the smoking in the building be controlled by the persons renting the building rather than by an ordinance.

Councilman Little stated that he respected smokers, but now that there was a covered walkway at the building, it would be easy for persons who did smoke to step outside. He stated that there were persons who were allergic to the smoke and some persons that the smell of smoke made sick. He stated that the purpose of the building was for enjoyment and some persons could not enjoy the building if smoking was allowed.

Councilman Cross stated that he was a former smoker and smoke did not usually bother him. He stated that at the Community Building, perhaps due to the low ceilings, the smoke did bother him.

Councilman Ayers stated that he had been in the building when the smoke looked like fog throughout the room.

Councilman Little made a motion to adopt the following Ordinance effective November 1, 1991 prohibiting smoking in the Marion Community Building. The motion was seconded by Councilman Cross. The vote was as follows: Ayes: Councilman Little, Councilman Cross and Councilman Ayers. Noes: Councilman Stronach and Councilman Tyler.

ORDINANCE
PROHIBITING SMOKING IN THE MARION COMMUNITY BUILDING

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

Section 1. Smoking is prohibited in the Marion Community Building.

Section 2. Any person who shall violate or fail to comply with this ordinance shall b 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. This ordinance shall be in effect beginning November 1, 1991.

ADOPTED this the 22nd day of October, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Ordinance # O-91-10-22-B

FIRE DEPARTMENT - FIRE TRUCK SPECIFICATIONS - DISCUSSIONS: Mr. Jim Neal of the Marion Fire Department stated that several members of the Fire Department had been looking at fire trucks for replacement in the department. He stated that they had been in contact with ISO concerning specifications for the truck. He stated that the fire department received their latest rating from ISO in 1984 when they were given credit for a ladder truck that they actually did not have. He stated that the department needed a ladder truck and a pumper and they had been in hopes of getting a combination pumper/ladder, however when they had talked to ISO, they were advised that they would only receive one half the points on the rating scale for a combination truck.

Mr. Neal stated that at this time, the committee had stopped looking for a truck until they could talk to Council. He stated that if a combination truck was purchased, the fire department could loose points on the ISO rating schedule and could possibly drop down to a Class 6 Rate for fire protection. He stated that a Class 6 would have little or no effect on residential property, but would effect commercial and industrial property. He stated that since a risk of lowering the rate could be involved, they would like to get guidance from Council on the matter.

Mr. Tom Milligan stated that there were refurbished trucks on the market, however, most of them were ten years or older. Mr. Milligan stated that they had asked about repossessed trucks but were advised that the company they were talking with

had only heard of two repossessed trucks in the last fourteen years.

Mayor Clark stated that he thought that the firemen needed to look for a new pumper and a refurbished ladder truck or combination. He stated that once the trucks got over twenty years old, it was hard to get parts for the vehicles.

Arthur Edwards, Fire Chief stated that he would like to get a new pumper and a refurbished combination around seven to ten years old.

Councilman Stronach asked if the pumper and a combination ladder/pumper was purchased, would the fire rating increase. He was advised that it could possibly go up and that any improvements such as larger water lines would add points to the rating scale.

Mr. Neal stated that just for information purposes, they had asked about substations. He stated that one of two conditions must exist when a substation was needed:

1. Answer over six hundred calls per year - at this time, an average of two hundred seventy five calls are answered per year.

2. A 1 1/2 miles count per hydrant - for example if there are one hundred hydrants in the first mile, and fifty in the next one half mile, then a substation would be needed.

The City Manager stated that the way the fire districts were set up, if a substation was needed, they would have to contract with another department.

The Fire Committee agreed that they would advise the firemen to look for a new pumper truck and look for a refurbished combination truck.

The Firemen were advised to compile specifications for a pumper truck and look for refurbished combination trucks.

REPORTS:

1. NEW FIRE STATION: The City Manager stated that an oil odor had been discovered in the lot where the new fire station is to be located. He stated that at this time, we are awaiting on a report from Froehling & Robertson Inc. regarding what action, if any, is required prior to construction.

2. ROOF - NEW CITY ADMINISTRATION BUILDING: The City Manager stated that the new roof for the City Administration building had been completed today.

3. TREES - DOWNTOWN: The City Manager stated that the Christmas lights for the trees on Main Street had been placed and all the new light poles should be installed prior to the Christmas Parade.

4. EASEMENTS - FOREST ROAD: The City Manager stated that all the easements for the water line for Forest Road had been signed. He asked if Council wished to pull workers from the Nebo project or let the residents on Forest Road wait for installation of the larger water line. Council agreed to let the work on Forest Road wait because the delay had not been caused by the City.

5. MEETING - RALEIGH - DISCUSSION FUNDING FOR WATER LINE EXTENSIONS: The City Manager stated that there would be a meeting November 7, 1991 in Raleigh with officials from the Department of Corrections and EDA concerning funding for the water line extension to serve the prison. He stated that representatives from the County would be attending the meetings as well as representatives from Isothermal Planning & Development and McGill Engineering. Several members of Council stated that they could attend.

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

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

November 5, 1991

The City Council for the City of Marion met in Regular Session on Tuesday, November 5, 1991 at 7:00 P.M. in the Fire Meeting Room.

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; Alvin Callahan, Building Inspector; Bill Gilsdorf, Chief of Police; Lydia Carrington, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. Bob Kirksey, McCall Kirksey Funeral Home; Mr. Herman Kirksey, McCall Kirksey Funeral Home; Mr. Charles England, England Builders; and Mr. Grayson England, England Builders.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the October 22, 1991 meeting.

McCALL KIRKSEY FUNERAL HOME - NEW CONSTRUCTION - PARKING AND DRAINAGE: Mr. Charles England stated that the older building of McCall Kirksey had been removed and that they would begin construction on the new facility as soon as the debris was cleared. Mr. England stated that the parking and new building would create a drainage problem. He stated that they would like to construct a manhole and run drainage pipes into the storm drain at the end of Logan Street in connection with the drainage for the new fire house. He stated that the McCall Kirksey would purchase the materials if the City would install the manhole and drain pipes.

Councilman Stronach asked if Gary McGill of McGill Engineering had been contacted concerning the drainage problem. He was advised that he had not been contacted, however, the Building Inspector and Public Works Director had worked out a plan and would be talking with the architect for the fire station to see if the drain would be feasible. Councilman Stronach stated that he felt that the City should work with McCall Kirksey in any way they could to solve the drainage problem.

Councilman Ayers asked if there would be a line somewhere to show what the City would maintain and what the funeral home would maintain. He was advised that there would be a line to tell who would maintain what.

Councilman Tyler asked if there would be any additional parking. He was advised that there would be a parking lot with thirty one spaces.

Mayor Clark asked if they had a route for funerals. He was advised that the parking lot would have diagonal parking with a circular drive. Mr. Kirksey stated that thirty-seven percent of funerals are held in the chapel (figure includes Old Fort Funeral Home) and the most are held on Wednesdays.

Mayor Clark stated that what he had understood was that McCall Kirksey planned to purchase materials for a manhole and drain pipe to run from their facility to Logan Street if City crews would install the line.

Mayor Clark stated that the City would have an answer for them at the next meeting of Council.

PRIVILEGE LICENSE REFUND - MR. SAM BURLESON: The City Manager stated that a Privilege License had been issued to Mr. Sam Burleson to sell Christmas Trees in a lot across from Walmart. In further checking, it was discovered that the lot was located outside the City and Mr. Burleson had requested a refund in the amount of $6.25 for the Privilege License.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to refund Mr. Sam Burleson $6.25 for Privilege License collected in error.

PROJECT CHRISTMAS - REQUEST TO USE BASEMENT OF COMMUNITY BUILDING - NOVEMBER AND DECEMBER 1991: The City Manager stated that he had received a request from Ms. Joann Davis and Ms. Connie Burgin, Co-Directors of Project Christmas concerning using the basement of the Community Building to store and assemble items they receive through Project Christmas for underprivileged families.

The City Manager stated that the Wagon Masters used the basement on Tuesdays and that Ms. Linda Suttles had talked to them and they did not see a problem with

Project Christmas using the basement.

The City Manager stated that they would require a small office with telephone access and heat. He stated that there was an office that was used by the National Guard that had a telephone line - they would have to have the phone connected and would be responsible for the cost.

The City Manager stated that his only concern was that the gate would have to be opened to get the items to the basement. He stated that he would inform the group that the City would not be responsible for any damages to the items stored or for injuries. He stated that Project Christmas would be willing to pay rent on the building, but he would recommend that they be allowed to use the building without charge.

Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to allow Project Christmas to use the basement of the Community Building during November and December, 1991 without charge.

OPEN HOUSE - CITY ADMINISTRATION BUILDING: The City Manager stated that Mrs. Nancy Clark had obtained pictures of the former Mayors of Marion which now hung in the City Council Chamber. The City Manager stated that since the building was to be torn down for construction of the new fire station, it had been suggested that the pictures be relocated at the new administration building. He stated that it had been suggested that the family members of the former Mayors be invited to a small ceremony and that he would like to combine this with the Open House for the new Administration Building.

A small discussion followed. Council agreed to hold the Open House on November 23 at 10:00 A.M. and to invite the family members of former Mayors.

MINORITY BUSINESSES - PARTICIPATION IN PUBLIC BUILDING CONTRACTS: The City Manager stated that legislation now required that Minority Businesses must be allowed to participate in bids for construction of public buildings in excess of $100,000. He stated that a notice and notice of public hearing must be run in the local newspaper prior to adoption of the policy. He stated that the policy required that an agency working for the minority businesses must be contacted prior to a bid opening to allow the minority businesses in the area to bid on the project. He stated that the minority business did not have to be awarded the contract if they were not the lowest bid.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to proceed with running the notices in the local newspaper and setting the Public Hearing for the December 3, 1991 meeting.

REPORTS:

1. **TAX NOTICE - ERROR IN SENDING TO CORRECT PERSON:** The City Manager stated that he had enclosed in the agenda, a memorandum from the Tax Collector stating that she had sent a tax notice to a mortgage company in error. She stated that the notice returned to her and she mailed it to the correct property owner. She stated that when the taxpayer paid the notice, they took the one percent discount allowed only during the month of August. The bill was paid after August.
The City Manager stated that the Tax Collector had contacted Mr. Bill Campbell at the Institute of Government and had been advised that the City did not have to send a notice to the taxpayer and that the taxpayer had an obligation to call and ask for the amount due on his taxes, therefore, allowing no legal way to forgive the amount of the discount. He stated that the years that the current Tax Collector had been in this position, this particular person had not taken advantage of the discount.

Councilman Stronach stated that he felt that the taxpayer should be allowed the discount, however, if there was no legal way to allow it, they could not forgive the amount of the discount. He stated that Council could chip in and pay the amount, however, everyone would request that they do that for them.

A short discussion followed. The City Manager was directed to write a letter to the taxpayer and explain what had happened and why they must pay the full amount without the discount.

2. **DEEP COVE SPRINGS - PROPERTY SOLD:** The City Manager stated that the property at Deep Cove Springs, a bottled water company in the Pleasant Gardens area had been sold. He stated that earlier in the year, the owner had requested that the City apply for a Community Development Block Grant to allow expansion of his facility. He stated that the person had backed out of the application because he did not have matching funds to use for expansion. He stated that the property had now been sold and the new owner would like to apply for the grant. He stated that it would involve the City installing approximately seventeen hundred feet of water line to his property to allow him to wash the bottles that the spring water

was to be distributed in.

Councilman Stronach asked if they could pick up where the other person left off. The City Manager stated that he was not sure that the funds would be available.

Councilman Ayers stated that if the new owner was willing to pay for the line and the installation, the City could place the line.

The City Manager stated that the gentleman felt that since he was creating jobs for the community, the City should place the line. He stated that he would be at the next meeting of Council to discuss the project.

3. CITY AUDIT - 1990 - 1991: The City Manager passed out copies of the Audit for the fiscal year July 1, 1990 to June 30, 1991. He stated that Mr. Jim Issacs of Johnson, Price and Sprinkle would be present at the next meeting of Council to discuss the audit with Council. He stated that he was happy to announce that the City, despite the loss in revenues in the Water and Sewer Department had finished the year without any major obstacles.

4. POLICE DEPARTMENT REPORTS: The Police Chief stated that he would like to present the following reports:

1. That plans were tentatively set to have training at the range next week. He stated that if any member of Council would like to attend, they were more than welcome. He stated that it was amazing what the officers had to do to qualify to keep their jobs.

2. He stated that the department would be conducting a Rape Crisis class at the High School and the Senior Crime Classes at the Senior Center would begin next week. He stated that the Senior classes would be conducted monthly. He stated that the annual shoplifting classes would begin on November 15.

3. The Police Chief stated that he had been asked to have a three to five minute presentation on the "Criminal Pay" (proposed legislation to reimburse police departments directly for time spent on the crime), project at a Public Hearing to be held at Western Piedmont on December 7. He stated that he needed a legislative sponsor for the bill.

4. The Police Chief stated that he would like for Council to declare a vehicle in a lot beside the Nickelodeon as a health and fire hazard to the community. He stated that the individual that owned the vehicle felt that the City was picking on him individually, however, the vehicle was a nuisance for all purposes. He stated that the owner would not move the vehicle and if it was declared a hazard, the City could move the vehicle at the owner's expense. He stated if he did not pay the bill, it could be attached as a lien to his property tax.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to declare the vehicle a health and fire hazard to the City.

5. ANNUAL CHRISTMAS DINNER: The City Manager stated that the annual Christmas Dinner had been set for Tuesday, December 17, 1991 at the Little Sienna Restaurant. Council agreed to meet at 6:30 P.M.

6. ANNUAL RETREAT: The City Manager stated that plans had been made to have the annual retreat at Cataloochee Ranch in Maggie Valley January 11 and 12, 1992. He stated that there was only a very small price difference between the Broyhill Inn and Cataloochee Ranch.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

CITY OF MARION

November 19, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, November 19, 1991 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; Freddie Killough, Downtown Business Association, and Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, W.D.L.F.; Van McKinney, News Reporter, W.B.R.M.; and Lydia Carrington, News Reporter, The McDowell News.

GUESTS PRESENT: Jim Isaacs, Johnson, Price and Sprinkle; Robin Hood, Chairman Planning/Zoning Board; Charles England, England Builders; James Lindsey, Sugar Hill Road; Wynn Jackson, Marion, NC; Robert McKinney Jr., Garden Creek Apartments; Gary Morgan, Garden Creek Apartments; Mrs. Helen Logan, West Marion.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the November 2, 1991 meeting.

1990 - 1991 AUDIT - PRESENTATION - JOHNSON PRICE AND SPRINKLE: Mr. Jim Isaacs of Johnson Price and Sprinkle appeared before Council and presented the 1990 - 1991 Audit. He stated that they had found no improprieties or illegal acts. He stated that due to the unstable economy, and the loss of income to the City from the State level and the loss of income from Cross Mill closing, the City needed to be commended on the way they cut costs and made it through the year and kept the financial position good for the City.

Councilman Stronach asked why the City had to have a depreciation schedule for buildings and equipment since they were not a tax paying business. Mr. Isaacs stated that the depreciation schedule was for informational purposes only and showed what the life and value of the buildings and equipment were at this time.

A short discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept the audit and to remit the final payment to Johnson, Price and Sprinkle.

PUBLIC HEARING - MARION ZONING ORDINANCE: The City Manager opened a Public Hearing to discuss items relating to the City of Marion Zoning Ordinance.

1. Rezoning Lots - West Henderson Street: Mr. Robin Hood, Chairman, Planning/Zoning Board stated that the Board would like to recommend that the following lots on West Henderson Street be rezoned from R-2 General Residential to C-2 General Business: (31C-14-1 - Guy Jackson; 31C-14-7 - Wynn Jackson; 31C-14-6 - Helen Ross Logan; 31C-15-2 - Lula Swepson; 31C-15-1 - Church of God of Prophecy; 31C-14-2A - Doris Hill; 31C-13-5 - Mildred Wilson Davis; 31C-9-11 - James Lindsey; and 31C-9-12 - Doris Hill).

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to accept the recommendation of the Planning/Zoning Board to rezone the above listed property from R-2 General Residential to C-2 General Business.

2. Mr. Hood stated that the Planning/Zoning Board wished to amend the Zoning Ordinance:

ARTICLE X. EXCEPTIONS AND MODIFICATIONS, SECTION 1003, GROUP PROJECTS

from : In the case of two (2) or more principal buildings to be constructed on a plot of ground of at least two (2) acres not subdivided into the customary streets and lots and which will not be so subdivided, a group project may be authorized as a special exception by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood provided that:

to: In the case of two (2) or more principal buildings to be constructed on a plot of ground not subdivided into the customary streets and lots and which will not be so subdivided, a group project may be authorize as a special exception by the Board of Adjustment in a manner that will be in harmony with the character of the neighborhood provided that:

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to accept the recommendation of the Planning/Zoning Board to amend the ordinance as requested.

McCALL KIRKSEY FUNERAL HOME - PARKING AND DRAINAGE PROBLEMS: The City Manager stated that he and the Public Works Director and Building Inspector had met with Mr. Bertram King (architect for the proposed fire station) concerning storm water drainage from McCall Kirksey Property across the City Parking Lot and Brown Drive. The City Manager informed the Board that a catch basin would be installed approximately fifteen feet east of the south-eastern corner of the old Burgin Hardware Building. A fifteen inch diameter pipe would run from that point, paralled with the back of the McDowell News building, to the center of Brown Drive. A catch basin would be installed at that location and an eighteen inch diameter pipe would be installed down the approximate center of Brown Drive to Logan Street. A catch basin would be installed at that location and a pipe installed to the north-eastern corner of Logan Street and West Court Street.

The City Manager stated that McCall Kirksey had indicationed that they would pay for materials up to $4,000 if the City would install the lines and catch basins.

Councilman Stronach stated that he was in favor of the plan.

Mr. Charles England stated that McCall Kirksey had indicated that they would furnish materials in the $4,000 range to pipe the drainage water to Logan Street. He stated that they had planned for three basins, however, the depth and type of basin constructed could have an effect on the price.

Councilman Little stated that he was in favor of the project and he felt that the increase in parking would benefit the City.

The City Manager stated that the Public Works Director had figured the price for the project and it was approximately $4,396. He stated that this figure included asphalt and stone which the original price did not include. A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to install the pipes and catch basins if McCall Kirksey would furnish materials for the project up to $4,400.00.

DEEP COVE SPRINGS/WINTER MOUNTAIN BOTTLED WATER - REQUEST FOR WATER SERVICE: The City Manager stated that no one was present representing Deep Cove Springs. This matter was tabled.

RECREATION COMMISSION - NEW BUILDING BIDS - REQUEST FOR ADDITIONAL FUNDS: The City Manager stated that the bids for the new Recreation Facility on the corner of Court and Academy Streets had come in above the amount received on the insurance settlement. He stated that the Recreation Commission would like to request that the City provide additional funds for the facility.

Councilman Stronach stated that he felt that this should be an item to be discussed at the next joint meeting. Councilman Little stated that he felt that a joint meeting would be a good idea.

Councilman Ayers stated that he was under the impression that the gym part of the building was not damaged during the fire and that new basketball backboards were just put in. He stated that he would like to know if these backboards were going to be used in the new building.

MUNICIPAL ELECTIONS - ABSTRACT OF CANVASSING: Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to accept the Abstract of Canvassing as follows:

ABSTRACT OF CANVASSING

We, the undersigned members of the McDowell County Board of Elections, do hereby certify that we met in the McDowell County Board of Elections office on Thursday, November 7, 1991 and did canvass the original returns of the Registrar and Judges of election of the votes cast for members of the City Council of the City of Marion at the regular municipal election held on November 5, 1991, and that the following is a true and correct tabulation thereof:

We, therefore, certify that pursuant to such tabulation, we have determined that:

Robert L. Ayers having received 114 votes and John Cross having received 136 votes have been duly elected members of the Marion City Council of the City of Marion, pursuant to law for a term of four years.

_____ _____

Robert Ramsey
Chairman, McDowell County Board of Elections

Jean B. Whitson
Member

Date

Jack Triplet
Member

Write In:
Richard Nixon - 1
Bill Smith - 1
Harvey L. Parker - 2
David Bradley - 2
Robert James - 2
James Segars - 1
Fred Moody - 1
Tom Hollifield - 1
J. C. Rayburn - 1

ERIC MILSAP - THE McDOWELL NEWS - REQUEST FOR INFORMATION: Mr. Eric Milsap, the McDowell News appeared before Council and requested that the news media be provided with a complete agenda packet prior to the meetings.

The City Manager read a letter he had received from Mr. Milsap requesting that an agenda packet be provided for the members of the news media and general public for each meeting.

Mr. Milsap stated that he would like for the reporters to receive copies of all items given to the City Council except information relating to items discussed in Executive Session.

Councilman Ayers and Little asked who would pay for the copies.

The City Manager stated that he had no problems with giving the news media copies however, he stated that the City leased their copier and had to pay for the copies made each month.

Mr. Milsap stated that he was interested in the accuracy of reporting the news, that sometimes the reporter did not understand what was happening during the meeting and if they had copies of the items to look at during the meeting the reporter would have a better understanding of the items. He stated that any information provided during the meeting that they would also request a copy of this information since this would be covered under the Open Meetings Law.

Mr. Milsap stated that the County provided a complete copy of the agenda. Mr. Van McKinney stated that the School Board and McDowell Tech provided copies of their agendas as well. None of these agencies charged for copies.

Councilman Ayers stated that the board members would give the media their copies of the agenda after the meeting. Mr. Milsap stated that he wanted the reporter to have the copies during the meeting.

Councilman Cross stated that he was in favor of providing the agendas to the media at their cost.

Mr. Milsap stated that if the City charged for the agendas, they would make a decision as to what the reporters would need to cut down their cost.

Councilman Little made a motion to prepare a packet of agenda items for the news media with the cover sheet being at no charge and each additional item copied at twenty-five cents per sheet.

Mr. Milsap stated that if the City was going to charge that the newspaper would bring their own paper and toner to the City to make their copies. He stated that he felt that twenty five cents was too high and that the public had a right to be informed of what was going on.

Councilman Little stated that he would like to amend his motion to ten cents per copy besides the cover sheet rather than twenty five cents per copy.

Councilman Cross stated that lots of paper would be wasted and if a cost was placed on the items, they would decide what they needed.

Councilman Stronach asked if the media received copies of the audit. The City Manager stated that they had copies available to them, but individual copies were not provided.

Mayor Clark asked if the news media could furnish their own paper for the copies. The City Manager stated that copies cost approximately seven cents each for the City since we lease the copier.

Councilman Stronach stated that it would not be a large amount of money to provide the copies.

Councilman Ayers stated that the amount was large and in this day and time of user fees, the cost should be passed along. He stated that he had no problem with furnishing the copies, however, it was a cost to the City.

The City Manager stated that he had no problem with furnishing the agenda items, however, the Councilmen had mailboxes at City Hall and these items were sometimes brought to the meetings. He stated that according to the request by Mr. Milsap, he would have to give the news media that information also. He stated that sometimes the committee members received information that the other board members did not get and in that case, the news media would be getting more information than the board.

Councilman Cross stated that due to the situation in the community, costs needed to be controlled.

Councilman Little restated his motion to furnish the news media with the agenda sheet without charge and each supporting sheet at ten cents per page. The motion was seconded by Councilman Ayers. The vote was unanimous.

The City Manager stated that the agenda belonging to him and his secretary could be made available to the media and they could borrow them and make their own copies as long as the City received their copies back prior to the meeting.

REPORTS:

1. TRIP TO RALEIGH - MEETING WITH DEPARTMENT OF CORRECTIONS AND EDA/ARC: Councilman Stronach stated that he, Councilman Tyler, The City Manager, representatives from the County, representatives from Isothermal Planning & Development Commission and Mr. Gary McGill attended several meetings in Raleigh last week concerning the construction of the new prison in McDowell County. He stated that the meetings went very well and that it appeared that the grant funds would be available to provide water and sewer service to the prison, however, there would have to be a committment from the local community. He stated that the they would like to have water service by September of 1992 available to the property. He stated that the cost of the prison would be over $25 million and have an operating budget of over $11 million.

2. GALEY & LORD - FINE: The City Manager stated that the Utility Committee had met with Galey & Lord concerning the fine assessed by the State. The fine was assessed because a report of the findings on the treatability study had not been sent in, however, there was nothing to report at this time. Councilman Ayers stated that Galey and Lord had indicated at the meeting that the fine was not caused by them in any way and had indicated that they would not pay the fine. He stated that when the City agreed to do the project, Galey & Lord had been told that any fines would be passed down to them. Councilman Stronach stated that the fine had been appealed by the City. He stated that they had talked to Representative Hunter and he would be willing to talk to the State Division of Environmental Management as our Representative.

3. OPEN HOUSE - REPORT: The City Manager stated that the Open House would be on Saturday, November 23, 1991. He stated that at 9:30, former Mayors and members of their families would be recognized and allowed to view the display of photographs and at 10:00, the building would be open to the General Public.

4. POLICE DEPARTMENT - REPORTS: The Police Chief stated that he had received a draft ordinance concerning noise but had not had time to review it thoroughly. He stated that it would involve decibels. He stated that he had been accepted at the FBI National Academy which was one of the most prestigious schools in the nation. He stated that he would like to attend the school which would be from June 22 to September 4 at a cost of $250.00. He stated that he needs to be at the Police Conference in July and they were trying to get him transferred to the next school. He stated that he would be gone for approximately twelve weeks. He stated that he would like permission to allow an FBI Officer to come and complete a background search on him prior to attending the school. He stated that this would not obligate the City in any way. Council had no objections and advised the Chief to proceed.

5. CHRISTMAS PARADE: The city Manager stated that the Christmas Parade would be held on Sunday at 3:00 P.M. He stated that Council had been invited to ride in the parade.

EXECUTIVE SESSION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to go into Executive Session to discuss the possible acquisition of property.

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. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

December 3, 1991

The City Council for the City of Marion met in Regular Session on Tuesday night, December 3, 1991 at 7:00 P. M. in the City Council Chambers.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Bill Gilsdorf, Chief of Police; Robert Parker; Cindy Byas, News Reporter, W.D.L.F.; Cindy Woodruff, News Reporter, McDowell News.

GUESTS PRESENT: Fred Koon, Recreation Commission Member; Judge Loto Greenlee Caviness; Lon Kanipe; Attorney Charles Burgin, Dameron and Burgin.

APPROVAL OF MINUTES: Upon a motion by Councilman John Cross, seconded by Councilman Joe Tyler, Council voted unanimously
to approve the minutes of the November 19, 1991 meeting.

Appointments: Upon a motion by Councilman Robert Ayers, seconded by Councilman Joe Tyler, Council voted unanimously to appoint Mr. J. Earl Daniels clerk and fiance officer for the City of Marion.

Upon a motion by Councilman Robert Ayers, seconded by Councilman Angus Stronach, Council voted unanimously to appoint Penn Dameron, Charles Burgin and Tony Lynch as attorneys for the City of Marion.

OATHS OF OFFICE: Judge Loto Greenlee Caviness administered the Oath of Office to Councilman Robert Ayers. The Oath is attached to and made a part of these minutes.

Judge Loto Greenlee Caviness administered the Oath of Office to Councilman John Cross. The Oath is attached to and made a part of these minutes.

Judge Loto Greenlee Caviness administered the Oath of Office for City Clerk and Finance Officer to City Manager J. Earl Daniels. The Oath is attached to and made a part of these minutes.

Judge Loto Greenlee Caviness administered the Oath of Office to Attorney Charles Burgin. The Oath is attached to and made a part of these minutes.
After the Oaths were administered, Mayor A. Everette Clark thanked Judge Caviness for administering the Oaths of Office. Judge Caviness responded with great appreciation for being asked to administer the oaths.

SELECTION OF MAYOR PRO-TEM: Upon a motion by Councilman Angus Stronach, seconded by Councilman Joe Tyler, Councilman Robert Ayers was unanimously elected to be Mayor Pro-Tem.

APPOINTMENT OF COMMITTEES: The Mayor appointed the following committees to serve in the specified areas.

Street/Cemetery	Councilman Angus Stronach Councilman Stephen Little
Police	City Manager, J. Earl Daniels Councilman Joe Tyler Mayor A. Everette Clark Chief of Police, Bill Gilsdorf
Utility	Councilman John Cross Councilman Stephen Little
Fire	Councilman Angus Stronach Councilman Robert Ayers
Recreation/Community Building	Councilman Joe Tyler Councilman John Cross
Grievance/Safety	Councilman Robert Ayers
Fireman Relief Fund	Councilman Robert Ayers Councilman Stephen Little

The insurance committee to be deleted.

RECREATION PROPERTIES - ADDITIONAL FUNDS: At the meeting held December 2, at the County Administration Building, discussion was made to a needed $15,000.00 for contingencies in the construction of the new recreation center. The Commission suggested that the City guarantee $5,000.00 to match the County's $5,000.00 with the remainder coming from interest to make up these funds. Councilman John Cross made a motion that: The Recreation Commission use all the interest accumulated from deposited funds to cover contingencies, if not sufficient, the $5,000.00 the County is donating be used and if all of those funds are exhausted, the City would provide additional funds - not to exceed $5,000.00. This motion was seconded by Councilman Ayers and unanimously approved.

RECREATION COMMISSION - GENERAL WARRANTY DEED: A General Warranty Deed from McDowell County, was made to the City of Marion and the Town of Old Fort for a 13.2 acre located on Greenlee Road - donated by Mr. Woody; and a 10.31 acre track located in North Cove - donated by Mr. Andrews.

This was done to insure the three governing bodies would hold equal title. Both properties were donated and designed for recreational purposes.

Upon a motion by Councilman Angus Stronach, seconded by Councilman John Cross, Council voted unanimously to accept the warranty deed and the 10.31 acre track located in North Cove - donated by Mr. Andrews.

REQUEST FOR NEW STREET LAMPS: Westmorland-Clapp Funeral Home, Inc. made a request to continue the street lamps to their block. Mr. J. Earl Daniels, City Manager pointed out the following problems and why the lighting was stopped at its present location.

1. The present driveway between Heilg-Myers and Westmoreland-Clapp would have to be cut for underground wiring and repaired.

2. The width of the sidewalk in front of Westmoreland-Clapp would not permit adequate space.

3. The cost of the additional lamps were not budgeted.

The City Manager was instructed to send a letter advising that consideration would be given the request when preparing the 1992-1993 budget.

REQUEST FOR USE OF COMMUNITY BUILDING BASEMENT: Mr. Michael Loftis made a request to use the basement of the Marion Community Building for basketball practice one morning during the week and on Sunday evenings.

Due to the use of the basement through the month of December by Project Christmas, it was decided to turn the request over to the new community building committee with a decision forth coming at the January 7, 1992 meeting.

PUBLIC HEARING - POLICY ESTABLISHING PARTICIPATION OF MINORITY BUSINESSES: The public hearing was opened with the City Manager requesting anyone wishing to speak to this matter could do so. No minority business was present.

Upon a motion by Councilman John Cross, seconded by Councilman Angus Stronach, Council voted unanimously to adopt the Minority Business Enterprise Guidelines for Public Building Contracts and the following Resolution:

A RESOLUTION ESTABLISHING A VERIFIABLE PERCENTAGE GOAL FOR PARTICIPATION BY MINORITY BUSINESSES IN THE AWARDING OF PUBLIC BUILDINGS CONSTRUCTION CONTRACTS PURSUANT TO G.S. 143-128, AS AMENDED, AND THE ADOPTION OF MBE GUIDELINES

WHEREAS, the North Carolina General Assembly enacted Chapter 480 and Section 74.17 of Chapter 770 of the 1989 Session Laws, thereby rewriting North Carolina General Statute 143-128; and

WHEREAS, G.S. 143-128 (c) requires each city, county or other public body to adopt, after notice and a public hearing, an appropriate verifiable percentage goal for public buildings contracts the costs of which exceed one hundred thousand dollars ($100,000) and which are awarded pursuant to G.S. 143-128; and

WHEREAS, G.S. 143-128 (c) (3) requires an authority awarding a public buildings contract the cost of which exceeds one hundred thousand dollars ($100,000) under a single-prime contract system to adopt written guidelines specifying the action that the prime contractor must take to ensure a good faith effort in recruitment and selection of minority businesses for public buildings contracts awarded under the single prime contract system, and requires that action taken by the prime contractor must be documented in writing by the contractor to the appropriate awarding authority; and

WHEREAS, G.S. 143-128 (c) (4) requires an authority awarding a public buildings contract the cost of which exceeds one hundred thousand dollars ($100,000) under a single-prime contract system to adopt written guidelines specifying the action that the prime contractor must take to ensure a good faith effort in the recruitment and selection of minority businesses for public buildings contracts awarded under the single prime contract system, and requires that action taken by the prime contractor must be documented in writing by the contractor to the appropriate awarding authority; and

WHEREAS, G.S. 143-128 (b) requires that a public body choosing to use a single prime contract system must also seek bids for a public buildings contract the cost of which exceeds one hundred thousand dollars ($100,000) under a separate-prime or separate specification contract to the lowest responsible bidder or bidders for the total project; and

WHEREAS, G.S. 143-128 (d) requires the state and its political subdivisions to award public buildings contracts the costs of which exceeds one hundred thousand dollars ($100,000) without regard to race religion, color, creed, national origin, sex, age or handicapping condition; and

WHEREAS, notice of the public hearing was duly published in The McDowell News and the public hearing required by G.S. 143-128 (c) was held on Tuesday, December 3, 1991.

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

Section 1. That the City Council of the City of Marion shall have a verifiable goal of ten percent (10%) for participation by minority businesses in public buildings construction contracts awarded pursuant to G.S. 143-128.

Section 2. That the official, employee or agent responsible for advertising such contracts shall compile a list of minority businesses within the bidding area, using information obtained from the Institute of Minority Economic Development, or from other institutions or agencies providing such information.

This list shall be updated on an annual basis and shall be open for inspection and shall be available so that minority businesses will have the opportunity to add their names to the list. Copies of this resolution shall be transmitted to the businesses on the list as soon as practicable along with the name of the City Clerk for the City of Marion who shall serve as the contact person for minority businesses and be responsible for answering project related questions posed by minority businesses.

Section 3. That for each such public buildings contract let bids under the separate specification or the single-prime contract systems, notice of the contract shall be transmitted to minority businesses on the above named list.

Section 4. That for each such public buildings contract let for bids under the separate specification or single-prime contract systems, documents related to the contract shall be available for inspection at a convenient and accessible location of which minority business shall receive notice.

Section 5. That for each such public buildings contract let for bids under

the separate specification or single-prime contract systems, the contact person designated pursuant to orient contractors and subcontractors to the policy expressed in this resolution as well as bid procedures and regulations. Minority businesses on the list obtained and maintained as provided herein shall be notified of and invited to these prebid conferences.

Section 6. That for each such public buildings contract let for bids under the separate specification or single-prime contract system, published notice of the contract shall include a summary of this resolution.

Section 7. That for any such public buildings contract let for bids under the separate specification contract system, the contact person designated herein shall maintain records with respect to:

(a) Those contractors or subcontractors notified of the project and the number of these contractors and subcontractors that are minority businesses as defined in G.S. 143-128 appearing on the list of minority businesses maintained pursuant to Section 2 of this Resolution.

(b) Those contractors or subcontractors that bid or otherwise respond to notice of the project, and the number of these that are on the maintained list of minority businesses.

(c) Those contractors or subcontractors awarded contracts as part of the project and the number and identity of those that are on this list of minority businesses; and

(d) The percentage of work on the project that is to be performed by minority businesses appearing on the list maintained pursuant to this resolution.

Section 8. That for any such public buildings contract let for bids under the single-prime contract system, the single-prime contractor shall:

(a) Notify those minority businesses appearing on the list of minority businesses maintained pursuant to Section 2 of this Resolution of the portion of the project which will be subcontracted by the single-contractor and solicit bids from those minority businesses.

(b) Submit with his bids records with respect to:

1. Those subcontractors notified of the project and of those elements of the project for which subcontractors will be let and the number of these subcontractors that are minority businesses as defined in G.S. 143-128 appearing on the list of minority businesses maintained pursuant to Section 2 of this Resolution;

2. Those subcontractors that bid or otherwise respond to notice of the project and the number of these that are on the maintained list of minority businesses;

3. Those subcontractors awarded contracts as part of the project and the number and identity of those that are on the maintained list of minority businesses; and

4. The percentage of work on the project that is to be performed by minority businesses appearing on the list maintained pursuant to this Resolution.

Section 9. That these policies shall be a part of the request for proposals for any such contract, and noncompliance by any bidder shall be grounds for declaring the bid non-responsive.

Section 10. That the City's document entitled "Minority Business Enterprise Guidelines for Public Buildings Contracts, dated December 3, 1991 is hereby adopted and approved for purposes of specifying actions to be taken to ensure a good faith effort to recruit minority business participation in public buildings contracts undertaken by the City of Marion and same is further approved for purposes of the City's compliance with G.S. 143-128, as amended.

Section 11. This resolution shall become effective upon its adoption and approval.

ADOPTED and APPROVED this the 3rd day of December, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

R-91-12-03-01

CITY OF MARION, NORTH CAROLINA
MINORITY BUSINESS ENTERPRISE GUIDELINES
FOR PUBLIC BUILDINGS CONTRACTS

Section 1. Purpose.

In compliance with Chapter 480 and Section 74.17 of Chapter 770 of the 1989 Session Laws of the North Carolina General Assembly, and the resultant amended G.S. 143-128, the following policy provisions are set forth for purposes of specifying actions to be taken to ensure a good faith effort to recruit minority business participation in public buildings contracts undertaken by the City of Marion. It is the City's intent that these guidelines provide the basis for minority business participation to achieve a verifiable goal of ten percent (10%) for all public buildings contracts awarded. The City as awarding authority for such construction projects, and the contractors and subcontractors performing the construction contract awarded, shall cooperate in good faith to do all things legal, proper and reasonable to achieve the referenced verifiable goal for participation by minority businesses. Nothing contained in the guidelines shall be construed to require the City to award contracts, or make purchases of materials or equipment from minority business contract who do not submit the lowest responsible bid or bids. Otherwise, the guidelines set forth herein shall be in addition to all other bidding and contract requirements required by the City and the State.

Section 2. Definitions.

1. Minority - a person who is a citizen or lawful permanent resident of the United States and who is:

   a. Black, that is, a person having origins in any of the black racial groups in Africa;

   b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

   c. Asian American, that is, a person having origins in any of the original peoples of the Far East, subcontinent, the Pacific Islands;

   d. American Indian or Alaska Native, that is, a person having origins in any of the original peoples of North America; or

   e. Female.

2. Minority Business - means a business:

   a. In which at least fifty-one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons; and

   b. Of which the management and daily business operations are controlled by one or more of the minority person who own it.

3. Owner - The City of Marion.

4. Bidder - Any person, firm, or partnership, corporation, association, or joint venture seeking to be awarded a public contract or subcontract.

5. Contract - A mutually binding legal relationship or any modification thereof obligating the seller to furnish equipment, materials or services, including construction, and obligating the buyer to pay for them.

6. Contractor - Any person, firm, partnership, corporation, association, or joint venture which has contracted with the owner to perform construction work or repair.

7. Subcontractor - A firm under contract with the prime contractor for supplying materials or labor and materials and/or installation.

8. Verifiable Goal means:

   a. For purposes of separate-prime contract system, the City has adopted written guidelines specifying the actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; and

   b. For purposes of single-prime contract system, the City has adopted written guidelines specifying the actions that the prime contractor must take to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded; the required actions must be documented in writing by the contractor to the City.

9. Institute of Minority Economic Development - A non-profit, tax-exempt organization which provides research and policy analysis focusing on issues pertaining to minority economic development and resource expansion.

Section 3. Responsibilities.

1. Agency Responsibilities:

The Institute of Minority Economic Development has established programs which certify to interested persons, business qualifying as Minority Business Enterprises (MBE). Information solicited by applicant(s) is used by the Institute of Minority Economic Development to:

a. Determine MBE certification; i.e., that those certified are MBEs under G.S. 143-128 as a contractor and/or subcontractor.

b. Identify those areas of work for which there are certified MBEs as requested.

c. Provide interested parties with a list of prospective certified MBE contractors and subcontractors.

d. Assist in the determination of technical assistance in the certification programs(s) that need to be provided.

In addition to certification of those small and emerging businesses that want to participate in a City public buildings contraction program, the Institute of Minority Economic Development may be utilized to:

(1) Maintain a current list of certified MBEs. The list shall include the areas of work in which each MBE is interested.

(2) Publicize the contracting and subcontracting opportunities available for each City construction project advertised.

(3) Work with the Carolina Branch of Associated General Contractors (AGC) in developing and implementing a certification program intended to improve the ability of MBEs to compete in this program.

2. City Responsibilities:

Under both the single-prime and separate-prime contract systems set forth in G.S. 143-128 the City, as owner, will be responsible for the following:

a. For public building contracts in excess of $100,000 in estimated cost, furnish to the public and all interested parties prior to any bid opening the following:

(1) Project description and location;

(2) Locations where bidding documents may be reviewed;

(3) Name of representative of the owner who can be contacted during the advertising period to advise who the prospective bidders are;

(4) Date, time and location of the bid opening; and;

(5) Date, time and location of prebid conference, if scheduled.

b. The prebid conference, if scheduled, shall be conducted by the representative of the owner and will be open to the known and anticipated prime contractors, subcontractors, material suppliers, and other bidders. During the conference, these guidelines, including the bidder's responsibilities will be fully explained.

c. Reviewing the apparent low bidders' compliance with the items listed in the proposal that must be satisfied if the bid is to be considered responsive. The owner reserves the right to reject any or all bids and to waive formalities.

Additionally, the City will be responsible for the following procedures:

a. Attend the scheduled prebid conference;

b. Identify or determine those work areas of a contract where MBEs may have an interest in performing contract work;

c. At least ten (10) days prior to the scheduled day of bid opening the City will notify certified MBEs of potential contracting opportunities listed in the proposal. The notification will be forwarded to those MBEs named upon the City's official Minority Business List and shall include the following:

(1) A description of the work for which the bid is being solicited;

(2) The date, time and location where bids are to be submitted;

(3) The name of the City's representative who will be available to answer questions about the project;

(4) Where bid documents may be reviewed; and,

(5) Any special requirements that may exist, such as insurance, licenses, bonds and financial arrangements.

d. Maintain documentation of any contracts, correspondence or conversation with MBE firms made in an attempt to meet goals.

3. <u>Prime Contractor (s) Responsibilities:</u>

Under the single-prime and separate-prime contract systems set forth in G.S. 143-128 the prime contractor (s) will:

a. Attend the scheduled prebid conference;

b. Identify or determine those work areas of a subcontract where MBEs may have an interest in performing subcontract work.

c. At least ten (10) days prior to the scheduled day of bid opening, notify certified MBEs of potential subcontracting opportunities listed in the proposal.

(1) A description of the work for which the subbid is solicited;

(2) The date, time and location where bids are to be submitted;

(3) The name of the individual within the company who will be available to answer questions about the project;

(4) Where bid documents may be reviewed; and,

(5) Any special requirements that may exist, such as insurance, licenses, bond and financial arrangements.

If there are no more than three (3) certified MBEs in the area of the project, the contractor (s) shall notify three (3), but may contact more if the contractor (s) so desires;

d. During the bidding process, comply with the contractor (s) requirements listed in the proposal for minority participation;

e. Submit with the bid a description of that portion of the work to be executed by MBEs expressed as a percentage of the total contract

price.

f. Upon being named the apparent low bidder, the bidder shall provide the necessary documentation as listed in the contract documents. Failure to comply with procedural requirements as defined in the contract documents may render the bid as non-responsive and may result in rejection of the bid and award to the next lowest responsible and responsive bidder;

g. During the construction of a project, if it becomes necessary to replace an MBE subcontractor, advise the owner; and,

h. If during the construction of a project additional subcontracting opportunities become available, make a good faith effort to solicit subbids from MBEs.

4. MBE Responsibilities:

While MBEs are not required to become certified in order to participate in the award of City Public buildings contracts, it is recommended they become certified and take advantage of the appropriate technical assistance made available. In addition, MBEs who are contacted by owners or bidders should respond promptly whether or not they wish to submit a bid.

Section 4. Dispute Procedures.

It is the policy of the City that disputes with another person that involves a person's rights, duties or privileges, should be settled through informal procedures. to that end, MBE disputes arising under these guidelines should be resolved, if possible, by informal proceedings arranged by the City Manager of the City of Marion or his designee.

Section 5. Non-Discrimination.

All awards of public buildings contracts pursuant to G.S. 143-128 shall be made without regard to race, religion, color, creed, national origin, sex, age, or handicapped condition, as defined in G.S. 168A-3; however, nothing in this policy shall be construed to require contractors or the City to award contracts or subcontracts to or Make purchases of materials or equipment from minority business subcontractors who do not submit the lowest responsible bid or bids.

Section 6. Applicability.

These guidelines shall become effective upon enactment and remain in full force and effect until repealed. Copies of these guidelines may be obtained from the Office of the City Clerk, 260 South Main Street, Marion, North Carolina 28752, (704) 652-3551.

Section 7. Miscellaneous.

In addition to these guidelines, there will be issued with each construction bid package guideline provisions for contractual compliance providing for MBE participation in any City public buildings construction project (s).

NEBO WATERLINE - CSX PIPELINE CROSSING AGREEMENT: Upon a motion by Councilman Angus Stronach, seconded by John Cross, Council voted unanimously to adopt the following Resolution to authorize Mayor A. Everette Clark to sign the CSX agreement.

TOWN MEETING: The City Council agreed unanimously to schedule a Town Meeting at the Marion Community Building for January 9, 1992, at 7:00 pm. The meeting was set to encourage input from citizens to determine problem areas and to better equip Council in setting future goals and needs.

RECYCLING: Councilman John Cross asked the question as to where the City stood on recycling. The City Manager stated the City was waiting on a response from the County as to if and when they were going to help bear the cost. As of this date, no response had been received.

OTHER DISCUSSIONS:

Council Retreat - January 11 & 12, 1992

Opening of bids for new fire station - Date January 16, 1992

Council Dinner - December 17, 1991

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 17, 1991

The City Council for the City of Marion met Tuesday night, December 17, 1991 at the Little Sienna Restaurant.

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 and E. P. Dameron, City Attorney.

GUESTS PRESENT: Mrs. Nancy Clark; Mrs. Sandra Ayers; Mrs. Alice Little; Mrs. Becky Cross; Mrs. Edith Stronach Mrs. Nancy Tyler; Mrs. Jonelle Daniels; and Mrs. Nancy Dameron.

RESOLUTION - HONORING MR. E. P. DAMERON: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

RESOLUTION
OF THE
MARION CITY COUNCIL

The City of Marion, at a regular meeting of its governing body, on the 17th day of December 1991, adopted and recorded the following Resolution:

WHEREAS, E. P. "Sandy" Dameron, with unfailing grace, dignity and good humor, and exhibiting the very best qualities of his profession, has since 1940 served as Marion's City Attorney;

WHEREFORE, LET IT BE RESOLVED, that the members of the Marion City Council commend Sandy Dameron for his many years of distinguished service to the City of Marion, and also congratulate him on his other noteworthy achievements, including his recent induction into the General Practice Hall of Fame for Lawyers; and

LET IT BE FURTHER RESOLVED, that this Resolution shall be delivered to Sandy Dameron.

ADOPTED this the 17th day of December, 1991.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

A copy of the Resolution was presented to Mr. Dameron.

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

January 7, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, January 7, 1992 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; Cindy Byas, WDLF Radio; Lydia Carrington, The McDowell News; and Van McKinney, WBRM Radio.

GUESTS PRESENT: Ms. Luisa Robideaux, McDowell Technical Community College; Mr. Warren Hobbs, Sesquicentenial Committee; Ms. Jeanette Jarrett, Sesquicentenial Committee; Ms. Jacquelyn D. Wilson, East Court Street; Ms. Donna D. Wilson, East Court Street; and Mr. Otis Ledbetter, East Court Street.

APPROVAL OF MINUTES: Upon a motion by Councilman Tyler, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the December 3, 1991 and December 17, 1991 meetings.

MARION/McDOWELL SESQUICENTENIAL CELEBRATION - MR. WARREN HOBBS: Mr. Warren Hobbs, Chairman, Marion/McDowell Sesquicentenial Celebration was present at the meeting to bring Council up to date on progress of the celebration.

Mr. Hobbs stated that the plans were at this time to hold the celebration in three phases. The first phase would be printing of a Heritage Book - a publication of family history of families in McDowell County. Each household is allowed five hundred words to describe their history. The second phase is to have historical celebrations in the county and the third phase is the gala celebration to be held in September of 1993.

Ms. Janette Jarrett stated that a lot of work was being done in the educational area. She stated that fourth and eighth graders studied McDowell County history. At this time, a coloring book was being prepared to be presented to the fourth graders, a model contest of what the town would be like in twenty five years will be held. The winner will receive a trip to Raleigh. For the high school level, a quilt containing twenty thirteen inch squares of different scenes from the past and a painting by Mr. Howard McCourry will be raffled for a scholarship.

Mr. Hobbs stated that he would like for the City to have a survey of the original boundaries of the town made and markers installed. He stated that the approximate cost would be $3,500 plus the cost for the markers. He stated that the two surveying firms in town had agreed to work together on the project and would donate up to $500 in manpower and fees for the survey.

Mr. Hobbs stated that he would also like to have the City purchase banners in the City colors to attach to the lampposts during September, 1993. He stated that the cost would be approximately $475.00 for materials and that the banners would be the property of the City to use for other functions.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, Council voted unanimously to donate $1,750 to the Sesquicentenial Committee for the survey in February, 1992 and $1.750.00 during the next budget year.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to donate $475.00 to the Sesquicentenial Committee for materials for banners to be placed on the lampposts during the celebration period.

PUBLIC HEARING - MARION ZONING ORDINANCE - REQUEST TO REZONE PROPERTY: The City Manager opened a Public Hearing for the purpose of rezoning property located at 208 East Court Street Map 23C, Block 2 , Lot 5). The request was to rezone the property from C2 General Business to R2 General Residential.

There was no opposition to rezoning the property. The City Manager closed the public hearing.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to rezone the property located at 208 East Court Street (Map 23C, Block 2, Lot 5) from C2 General Business to R2 General Residential.

LEAGUE COMMITTEES - REQUEST FOR VOLUNTEERS: The City Manager presented a letter from Mayor Joseph Chandler, City of Claremont to Council requesting volunteers to serve on League of Municipalities Committees.

A short discussion followed.

Councilman Little stated that he would be interested in serving on the Energy, Resources and Environmental Committee.

CROSS MILLS INC. - REQUEST FOR PROPERTY VALUE ADJUSTMENT -COUNTY RESPONSE: The City Manager presented a package of information to Council from Cross Mills requesting a refund for taxes due to a property value adjustment. Included in the package of information was a letter from Mr. Darryl Parker, McDowell County, stating that he would review the information but by law, he could only adjust the current year if an adjustment is allowed.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to table the matter until the County clarifies the bill.

RECREATION COMMISSION - REQUEST FOR CITY TO INSTALL WATER LINE: The City Manager presented a request from the Recreation Commission to install approximately six hundred feet of water line to serve property they recently received as a donation. The City Manager stated that he had informed them that the City had several projects underway that needed to be completed and they would have to wait until a later time. He stated that the Recreation Commission would wait until the City could perform the work.

Council agreed that they would approve the request if the Recreation Commission provided the materials and the City did not stop working on current projects to put this line in.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to put the line in if the Recreation Commission supplied the materials.

RECREATION COMMISSION - REQUEST TO WAIVE INSPECTION FEES -RECREATION BUILDING - WEST COURT AND ACADEMY STREETS: The City Manager presented a request from Mr. Wayne Tucci, Recreation Director to waive any building permit and inspection fees. The request included a letter from the County Manager that all plumbing, electrical and mechanical permit fees had been waived.

The City Manager stated that these amounts were normally included in the contractor's bid as a part of the total price of construction.

A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to waive the fees if the bid documents require the owner to pay, but to charge the fees if the documents require the contractor to pay.

REQUEST TO USE BASEMENT OF THE COMMUNITY BUILDING - MR. MICHAEL LOFTIS - REPORT FROM RECREATION/COMMUNITY BUILDING COMMITTEE: The City Manager stated that the Recreation/Community Building Committee had discussed Mr. Loftis' request to use the basement of the Community Building on Sunday afternoon and one morning a week for basketball practice for the Baxter's team. He stated that the Committee had talked about this setting a precedent to allow other persons to use the building. He stated that they had agreed to allow them to use the building provided they were responsible for damages to the building, there would be no smoking, the City would not be responsible for accidents and they would pay $5.00 per hour in advance for use of the building. He stated that the Police Department would lock and unlock the building.

Councilman Little stated that he would like to abstain from voting because he knew Mr. Loftis.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, those remaining members of Council present voted unanimously to approve the use of the basement by Mr. Loftis provided they would pay $5.00 per hour in advance, they would be responsible for damages, there would be no smoking, and the City would not be held responsible for accidents.

RESOLUTION - AGREEMENT - DOT - UPGRADING TRAFFIC SIGNAL EQUIPMENT - SOUTH McDOWELL AND STATE STREETS: The City Manager presented a letter from DOT stating that they would upgrade the traffic signal at the intersection of South McDowell and State Streets (at East Junior High School) at an estimated cost of $3,500.00. The letter stated that they would need the funds six months in advance.

Councilman Ayers stated that he felt that the signal needed to be replaced, however, he objected to paying $3,500.00.

The City Manager stated that the City could take the light out and have stop signs from South McDowell since the light only served the school. He stated that officials from the school could be trained to direct traffic during the mornings and afternoons when school was going on.

Mayor Clark stated that he felt that the light was placed there to benefit the school and he felt that the State should replace the light. He stated that he felt that the City should try to talk to the DOT Board Member, Mr. David Brown about the situation. A short discussion followed. Council was in agreement to try and contact Mr. Brown about the light.

AGREEMENT - NORFOLK SOUTHERN RAILROAD COMPANY - NEBO WATER LINE EASEMENT: Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to allow the Mayor and City Manager to execute the following agreement with Norfolk Southern Railroad Company - Nebo Water Line Easement. The Easement can be found in the safe filed under Legal Document Number 587.

NEW FIRE STATION - RESOLUTION - APPOINT CITY MANAGER AS REPRESENTATIVE - REQUEST PROPOSALS FROM BANKS FOR FINANCING:
Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

RESOLUTION APPOINTING AUTHORIZED REPRESENTATIVE AND GIVING INSTRUCTIONS TO REQUEST PROPOSALS FROM BANKS FOR A FINANCING AGREEMENT AS AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20.

WHEREAS, the City of Marion, North Carolina desires to construct a new fire station to better serve the citizens of Marion; and

WHEREAS, the City of Marion desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20:

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Marion, North Carolina meeting in regular session on the 7th day of January, 1992, as follows:

1. To proceed with the Project to be financed by the use of an installment contract as authorized under North Carolina General Statute 160A.
2. That the City Manager be appointed as authorized representative for the City of Marion.
3. That the City Manager be instructed to request proposals from banks for an installment contract.

This resolution is effective upon its adoption this 7th day of January, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

REQUEST TO RECALL PARKING TICKET - JUROR: The Police Chief presented a request to recall a parking ticket that a Juror received during the last session of Superior Court to Council.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to waive the fee for the parking ticket and to consider similar cases

on an individual basis until a policy can be reviewed.

COMMUNITY BUILDING - STEPS FROM FIRST UNION PROPERTY -REMOVED BY CONTRACTOR: The City Manager stated that steps to the Community Building grounds from the property recently purchased by First Union Bank for a parking lot had been removed. He stated that he was under the impression that the steps would be left in place.

The City Manager asked Council if they wished to have the steps put back, or have the contractor remove the debris that supported the steps.

A short discussion followed. Council agreed to have the contractor remove the debris where the steps were located.

Mayor Clark stated that some drainage pipes ran into Logan Street from First Union Bank. He stated that during cold weather, the water could freeze and cause accidents.

Councilman Little stated that in case of an accident, he felt that First Union would be liable.

The City Manager was directed to contact First Union and let them know that the City would hold them responsible for accidents due to ice from the drain pipes running into Logan Street.

UTILITY AGREEMENT - MARION FABRICS: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve the following agreement with Marion Fabrics. The agreement is filed in the safe under Legal Document Number 585.

PROJECT CHRISTMAS - REPORT: The City Manager stated that he had received a letter from Project Christmas thanking the City for use of the Community Building during the holiday season. He stated that they were able to provide food and gifts to four hundred fifty seven needy persons this year.

REQUEST - LAPEL PIN FROM POLICE AND FIRE PATCHES: The City Manager stated that he had received a request from Mr. Kenneth Luther of Mercerville, New Jersey requesting a lapel pin and a patch from the fire department and the police department.

Council agreed to respectfully decline the request. Lapel pins are only given to City Officials and certain City Employees. Patches are only on the uniforms of police officers and firemen.

REPORTS:

1. NATIONAL LEAGUE OF CITIES - ANNUAL CONVENTION: The City Manager stated that he, Councilman Ayers, Councilman Little, and Councilman Cross planned to attend the National League of Cities Convention in Washington D.C. in March.

2. RETREAT - CATALOOCHEE RANCH: The City Manager reminded Council that the annual retreat would be this weekend at Cataloochee Ranch in Maggie Valley, North Carolina. He stated that the Police Chief and Mr. Gary McGill, McGill Associates would be the only persons besides Council present.

3. TOWN MEETING: The City Manager stated that a Town Meeting had been scheduled for Thursday, January 9, 1992 at the Marion Community Building at 7:00 P.M.

4. RECYCLING PROGRAM: The City Manager stated that he had received word that the County had voted to table the recycling program until next July.

5. COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he had received several complements on the Christmas Decorations. He stated that he would like to have the potholes on South Main Street near the Post Office filled if possible.

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

A. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

January 21, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, January 21, 1992 at 7:00 P.M. in the City Council Chamber.

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

BOARD MEMBER ABSENT: Councilman Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Charlie Presnell, Marion Fire Department; Jim Neal, Marion Fire Department; Cindy Byas, News Reporter, W.D.L.F. and Sandra Wilkerson, News Reporter, The McDowell News.

GUESTS PRESENT: Glenn Rhodes, Isothermal Planning & Development Commission; Chuck Abernathy, County Manager; and Paige Colley, County Intern.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the January 7 and January 9, 1992 meetings.

PRISON - EDA GRANT - WATER/SEWER UTILITIES: Mr. Glenn Rhodes, Isothermal Planning and Development Commission informed Council that the City had three options for applying for an EDA grant for the utility lines to be installed to serve the new prison. He stated the options were as follows: 1. McDowell County could be the applicant, however, they would own the water and sewer lines installed with the grant;
2. Joint application with the County which would allow the City to own the lines installed; 3. Marion be the applicant with McDowell County being the lead agency which would require a formal agreement with the County. Mr. Rhodes stated that he would recommend the joint application.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to file a joint application with the County for an EDA grant for utility lines to serve the prison and to authorize the City Manager to execute the documents.

CATAWBA RIVER STUDY COMMITTEE: Mr. Chuck Abernathy, County Manager was present to discuss the Catawba River Study Committee with Council.

Mr. Abernathy stated that he had received a call from Burke County concerning a study of the Catawba River. He stated that the committee would be studying the level of contamination, to monitor and analyze and assess points of the contamination, to address watershed areas but mainly to preserve and enhance the quality of the River.

Mr. Abernathy stated that the County had agreed the night before to join the study a cost slightly over $9,000 per year for two years with the cost being determined on a per capita basis. He stated that the Town of Old Fort would also be contacted to join the committee.

Upon a motion by Councilman Stronach, seconded by Councilman Cross, those members of Council present voted unanimously to join the Committee at a cost of $1,222 per year for two years contingent upon a representative of the City serving on the Committee.

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF FINANCING AGREEMENT - MARION FIRE STATION: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to adopt the following Resolution:

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the City of Marion, North Carolina desires to construct a new fire station to better serve the citizens of Marion; and

WHEREAS, the City of Marion desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, Findings of Fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its Findings of Fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marion, North Carolina, meeting in regular session on the 21st day of January, 1992, make the following Findings of Fact:

1. The proposed contract is necessary or expedient because the present Fire Station, constructed in 1936, is not adequate to house the type of new Fire Trucks needed to provide Fire Protection for the City of Marion and the Marion Area Fire District. The present fire truck [illegible] are not wide enough nor high enough to accommodate new fire trucks and renovation is not practical nor cost effective based on present building regulations and the age and condition of the building.

2. The proposed contract is preferable to a bond issue for the same purpose because the total cost of the Project is not sufficient to warrant the expenses involved in a bond issue. However the Project [illegible] is too expensive to be funded through current revenues and/or fund balance. Thus the contract method of financing proves to be the best alternative for the City of Marion.

3. The sums to fall due under the contract will be adequate and not excessive for the proposed purpose because the financing period is of a short enough term to not allow [illegible] and the rate of interest will be only nominally higher than that of a general obligation bond issue. The City of Marion used the competitive bidding process to obtain the lowest possible cost.

4. The City of Marion's debt management procedures and policies are good because the City of Marion adheres to the Budget Ordinance, provides for debt service payments and interest as a first priority, and uses a Purchase Order System to control expenditures. The Purchasing Agent, the Bookkeeper, and the City Manager are constantly monitoring the City's fiscal structure.

5. The City of Marion is not in default in any of its debt service obligations.

6. The attorney for the City of Marion has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and the laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Manager is hereby authorized to act on behalf of the City of Marion in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 21st day of January, 1992.

The motion to adopt this resolution was made by Councilman Ayers, seconded by Councilman Stronach and passed unanimously by those members of Council present.

A. Everette Clark, Mayor

ATTEST:
J. Earl Daniels, City Manager/Clerk

CALL FOR PUBLIC HEARING - NEW FIRE STATION: The City Manager stated that in accordance with the Local Government Commission's approval of Lease-Purchase Contracts, the City must hold a public hearing to discuss the financing of the project.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to set the Public Hearing for February 4, 1992.

FIRE STATION - BID TABULATIONS: The City Manager stated that a bid opening had been held on Thursday, January 16, 1992 for the construction of the proposed new fire station.

The bids were as follows:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

January 16, 1992

The City of Marion held a bid opening at 3:00 P.M., Thursday, January 16, 1992. The bids to be opened were for the construction of a new central fire station.

CONTRACTORS PRESENT: Mr. Doug Causby, Causby Construction Company; Mr. Larry Mills, G.E.M. Constructors; Mr. Eric Fensterer, Pyatt Heating and Air; Ms. Margaret Buckner, Buckner Plumbing & Heating; Mr. Larry Price, Triangle Constructors; Mr. Russell Carpenter, Hunter Construction; Mr. Dale Elliott, Caster Plumbing; Mr. Kee Byrd, K.C. Byrd Electrical; Mr. Gary Huffman, Cable Electric; Mr. John Smith, Carolina Shelter Construction; Mr. Wayne Burnette, Buckner Electric; Mr. Raymond Moore, Walker Construction; Mr. Todd Temple, Carolina Construction Company; Mr. Jeff Warren, Foothills Plumbing; Mr. Andy Matthews, Matthews Construction; Mr. Bob Matthews, Matthews Construction; Mr. Todd Smith, T.P. Smith Construction; Mr. Robert Blair, Home Electric; Mr. Jim Taylor, Taylor Brothers Construction; Mr. Keith Hensley, McCarroll Construction; Mr. Mike Silver, Metromont; Ms. Kathy Hollifield, G.E.M. Constructors; and Mr. Bill Bates, Emory Electric.

OTHERS PRESENT: Mr. J. Earl Daniels, City Manager; Mr. Bert King, J. Bertram King Architects; LuAnn Ellis, Secretary; Mr. Charlie Presnell, Marion Fire Department; Mr. Mack Laughridge, Marion Fire Department; Mr. Jim Neal, Marion Fire Department; Mr. Fred Moody, Marion Fire Department; Mr. Jimmy Morris, Marion Fire Department; and Ms. Lydia Carrington, News Reporter, The McDowell News.

Mr. Bert King closed the bids at 3:00 P.M.

Mr. King asked the following questions:

1. If there were any objections to proceeding with the bid opening.
2. If there needed to be any clarification of the bids, specifications, etc. He stated that there had been one change and asked if everyone had received the change.
3. If anyone had been denied the right to bid.

Mr. King stated that the City only received one bid for sprinklers and it would not be opened at this time.

The bids were as follows:

BID TABULATION
PROPOSED FIRE STATION

SINGLE PRIME CONTRACT

CONTRACTOR	BASE BID	ALTERNATE
Buncombe Construction Co.	$ 595,960	$ +6,500
Carolina Construction Co.	511,796	+7,069
Carolina Shelter Construction	492,238	+8,190
Causby Construction	507,000	+6,285
Clement & Blount	596,600	+7,110
G.E.M. Constructors	535,974	+7,185
Hunter Construction	469,435	+6,600
Matthews Construction	470,400	+6,500
McCarroll Construction	529,700	+5,000
T. P. Smith Construction	553,100	+7,000
Taylor Brothers Construction	529,120	+16,967

MULTI-PRIME CONTRACTS

GENERAL CONTRACT:

CONTRACTOR	BASE BID	ALTERNATE
Buncombe Construction	$ 487,200	$ +6,500
Carolina Construction	395,482	+7,069
Carolina Shelter Construction	384,492	+8,189
Causby Construction	399,000	+6,285
Clement & Blount	479,700	+7,110
G.E.M. Construction	423,751	+7,185

Hunter Construction	365,919	+6,600
Matthews Construction	359,700	+6,500
McCarroll Construction	417,000	+5,000
T.P. Construction	443,100	+7,000
Taylor Brothers Construction	408,850	+16,967
Walker Construction	427,627	+7,926

PLUMBING:

CONTRACTOR	BASE BID
Buckner Plumbing & Heating	$ 47,842
Castor Plumbing Co.	28,948
Dotson Plumbing & Heating	37,607
Foothills Plumbing	25,600

HEATING, VENTILATION AND AIR CONDITIONING:

CONTRACTOR	BASE BID
McNutt Service Group	$ 32,325
Pyatt Heating & Air	36,550
Triangle Contractors	39,165
Home Electric	39,984

ELECTRICAL:

CONTRACTOR	BASE BID
Brevard Electric	$ 56,500
Buckner Electric	48,459
K.C. Byrd Electric	50,714
Cable Electric	49,000
Davis Electric	57,470
Emory Electric	54,400
Home Electric	55,875
James Dean Wallace Electric	61,640

Mr. King stated that the Single Prime Contract Bids were for the complete project and that the Multi-Prime Bids were for each individual section of the project.

The City Manager asked what type of contingency fund would be needed. Mr. King stated that he would recommend a two to three percent contingency fund. He stated that he could not foresee any change work orders unless there would be problems with grading the lot.

The City Manager presented a letter to Council from Mr. J. Bertram King recommending that the low bid on a Single Prime Contract by Hunter Construction Company, Spruce Pine, North Carolina be accepted.

Mr. King's recommendation also stated that he saw no reason to rebid the sprinkler section of the Multi Prime Contract and the bid would not be lower than the bid of Hunter Construction where the sprinkler was included.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to accept the low bid of Hunter Construction Company in the amount of $469,435 plus the alternate of $6,600 contingent upon the approval of Local Government Commission for financing.

Mr. Jim Neal stated that Mr. King had allowed some generous figures for carpeting and brick. He stated that he felt some cuts could be made there.

Mr. Charlie Presnell stated that the contract stated that work would begin approximately ten days after being awarded and would be completed in two hundred days.

FIRE STATION FINANCING - BID TABULATIONS: The City Manager stated that a Bid Opening had been held earlier today for the purpose of financing the new fire station. The bids were as follows:

BID PROPOSALS - INSTALLMENT PURCHASE AGREEMENT - PROPOSED FIRE STATION - JANUARY 21, 1992

INSTITUTION	INTEREST RATE	AMOUNT	ORIGINATION FEE	TOTAL PAY BACK
Asheville Federal Marion, NC	No Bid			
B B & T Bank Old Fort, NC	No Bid			

Centura Bank
Rocky Mount, NC No Bid

Community Bank
Marion, NC No Bid

First Citizens Bank
Marion, NC
$400,000.00 - 10 years:

Floor	5.59%	1-3 yrs	53,296.43		
	5.75%	4-10 yrs	53,602.35	2,000	537,105.74
Cap	5.59%	1-3 yrs	53,296.43		
	7.75%	4-10 yrs	57,492.94	2,000	564,339.87

First Union Bank
Marion, NC
$500,000 - 7 Years

6.28%	90,461.00		633,227.00

Nations Bank
Marion, NC No Bid

Southern National
Charlotte, NC
$400,000 - 10 Years:

6.47%	55,563.79	1,000	556,637.90

$500,000 - 10 Years:

6.47%	69,454.74	1,000	695,454.74

United Carolina
Monroe, NC No Bid

Wachovia
Morganton, NC No Bid

The City Manager stated that he would recommend that Council accept the bid of Southern National Leasing Corporation in the amount of $400,000 for ten years at a fixed rate of 6.47 percent. He stated that he would recommend that the remaining funds be taken from the Capital Reserve Fund at a later time.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to accept the bid of Southern National Leasing Corporation in the amount of $400,000 for ten years at a fixed rate of 6.47 percent contingent upon Local Government Commission approval.

FIREMEN'S RELIEF FUND - APPOINT ONE MEMBER: The City Manager stated that Councilman Robert Ayers term on the Firemen's Relief Fund had expired December 31, 1991.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to appoint Councilman Robert Ayers to the Firemen's Relief Fund for a period of two years. Said term is to expire December 31, 1994.

PLANNING/ZONING BOARD - APPOINT TWO MEMBERS: The City Manager presented a memorandum to Council from Mrs. Lovina Smith, Zoning Administrator stating that two members needed to be appointed to the Planning/Zoning Board. The memorandum stated that the term of Mr. Robin Hood would expire on January 31, 1992 and that an alternate member representing the East Marion area needed to be appointed. Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to reappoint Mr. Robin Hood to the Planning/Zoning Board for a three year term. Said term to expire January 31, 1995.

Upon a motion by Councilman Tyler, seconded by Councilman Stronach, those members of Council present voted unanimously to nominate Mr. Willard Toney as alternate to the Planning/Zoning Board.

TAX REFUND REQUESTS: The City Manager presented a memorandum from Ms. Claudia Hill concerning the following tax refund requests:

1. Cason Companies - Requested a refund for taxes paid on property outside the City Limits. The amount requested is $99.56.

2. Marion Machine A Division of Superior Machine -Requested a refund for vehicles listed that are located in South Carolina. The amount requested is $152.17.

3. D N V Leasing - Requested a refund for a computer that they did not own as of January 1, 1991. The amount requested is $51.63.

Upon a motion by Councilman Ayers, seconded by Councilman Stronach, those members of Council present voted unanimously to refund the taxes as requested.

BUSINESS LICENSE REFUND - REQUEST: The City Manager presented a request for a Business License Refund from Mrs. LuAnn Ellis, Privilege License Clerk to Council. The request stated that Andrew's Marketing requested a refund for the 1990 - 1991 year since the business had relocated outside the City Limits early in 1990. The amount of the refund is $25.00.

Upon a motion by Councilman Cross, seconded by Councilman Stronach, those members of Council present voted unanimously to refund the Privilege License as requested.

REQUEST TO HANG BANNER - McDOWELL SENIOR CENTER - SENIOR GAMES: The City Manager stated that he had received a request from the Senior Center to hang a banner May 1, 1992 for the Senior Games.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the request.

LIGHT POLES - DOWNTOWN: The City Manager stated that they had talked about placing brick planters in the downtown area around the new light poles to provide extra support. He stated that in some places, the brick would come out to the curb and if a car drove up on the curb, it would hit the brick plant box.

Mayor Clark stated that he felt the plant boxes would be used for trash and cigarettes.

A short discussion followed. Council agreed to contact Duke Power and tell them they wished to leave the poles as they were without the plant boxes.

RESCUE SQUAD - REQUEST TO RECEIVE GARBAGE SERVICE: The City Manager stated that he had received a call from Mr. Dean Wall of the Rescue Squad requesting that the City pick up their garbage without charge since they are a non-profit organization. He stated that they had cans, but were being charged for the pick-up.

A short discussion followed. Council agreed to pick up the garbage of the Rescue Squad without charge and to forgive the amount of charges due.

COUNCILMAN AYERS - COMMENTS: Councilman Ayers stated that he had received complaints that the timing on the signal light at the intersection of Court and Garden Streets was holding traffic too long for persons traveling north. The Police Chief stated that he would check [illegible]

Councilman Ayers stated that he had been asked if a new speed limit ordinance had been passed since signs had been installed from Marion City Square to the Harvest with a speed limit of 35 miles per hour. The Police Chief stated that when the sewer lines were installed along North Main Street, the signs were removed and had just been replaced.

Councilman Ayers stated that he had also received complaints about persons parking in the no parking zone on State Street at [illegible] you had to pull out into the street to see if there was traffic coming.

COUNCILMAN STRONACH - COMMENTS: Councilman Stronach asked if the City had heard from the Department of Transportation concerning the traffic signal on State Street at the intersection of South McDowell at East Junior High. He was advised that the City had not heard from DOT.

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

ORDINANCE REQUIRING MOTORISTS TO STOP FOR STOP SIGNS AT DESIGNATED INTERSECTIONS

BE IT ORDAINED by the City Council for the City of Marion, [illegible] as follows:

Section 1. When STOP signs are erected at or near the entrance to the intersections designated below, every driver of a vehicle shall stop before entering the crosswalk on the near side of the intersection or if 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 intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

a. Stop at McDowell Avenue, heading north, before entering State Street.
b. Stop at McDowell Avenue, heading south, before entering State Street.
c. Stop at State Street, heading east, before entering McDowell Avenue.
d. Stop at State Street, heading west, before entering McDowell Avenue.

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

ADOPTED this the 21st day of January, 1992.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST: J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

O-92-01-21

REPORT - MOREHEAD ROAD PROJECT: The City Manager stated that the County had met the evening before and had agreed to file an application for a Community Development Block Grant for the Morehead Road area. He stated that the boards had agreed to work together to get the lines in if the application was denied.

REPORT - NEBO WATER LINE - PUBLIC WORKS DIRECTOR: The Public Works Director stated that work was up and down on the Nebo Water Line. He stated that they had ran into approximately one hundred feet of rock that took six days to remove. He stated that they could have put in eighteen hundred feet of water line. He stated that they had skipped around and had not put in line where the asphalt had to be cut since the asphalt plants are not in operation at this time. He stated that the crew was doing everything they could to get the line in, but it was a slow process.

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

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:
J. Earl Daniels
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 4, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, February 4, 1992 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; Robert Parker, Personnel Director; Bill Gilsdorf, Police Chief; Aaron Adams, Street Superintendent; Glen Sherlin, Public Works Director; Arthur Edwards, Fire Chief; Tom Milligan, Assistant Fire Chief; Jim Neal, Marion Fire Department; Mack Laughridge, Marion Fire Department; Charlie Presnell, Marion Fire Department; Keith Owenby, Marion Fire Department; Debi Laughridge, Marion, North Carolina; Freddie Killough, Downtown Business Association; Woody Killough, Downtown Business Association; Sandra Wilkerson, News Reporter, The McDowell News; and Cindy Byas,

News Reporter, W.D.L.F.

GUESTS PRESENT: Page Collie, McDowell County Intern; Mr. Ted Lowery, Marion, North Carolina; Mr. Wayne Bradburn, Marion, North Carolina; Mr. Billy Pierson, 127 California Avenue; Mr. Wyndell Brookshire, 241 Lincoln Avenue; and Mr. Harold Simmons, 235 Lincoln Avenue.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the January 21, 1992 meeting.

FIRE CHIEF ARTHUR EDWARDS: Mr. Arthur Edwards stated that he would be retiring from his position as Fire Chief for the City of Marion effective March 27, 1992 which would coincide with the date he was hired, March 27, 1972.

Chief Edwards stated that it had been a pleasure to work for the City and he had a good relationship with the City Council members through the years. He stated that the most important factor to making his job so successful was the volunteers, that he could not have done his job without them.

Mayor Clark stated that he would like to express his appreciation to Chief Edwards for the job he had done for the City. He stated that he had always put his job first. He stated that the City will miss him and that he wished the best for him in his retirement.

Members of Council and the City Manager all wished Chief Edwards the best of luck in his retirement and thanked him for the job he had done for the City.

MR. TED LOWERY - COMMENTS: Mr. Ted Lowery stated that he had moved from Spring Street to Henderson Street on the 7th day of January. He stated that the mail had been delivered to his old address and was stolen. He stated that there were several letters, a check and a box containing jewelry that his daughter had ordered. Mr. Lowery stated that the had filled out a police report but he felt that nothing was being done about the mail and jewelry that was stolen. He stated that his daughter had received bills from the jewelry company and they were going to turn her over to a collection agency. He stated that he talked to the magistrate, called the FBI and had talked to the District Attorney who had all stated that the City would have to issue warrants. He stated that he had done everything he knew to do except go to the Governor and that was what he planned to do.

Mr. Lowery stated that he had another problem, his sister lived in the apartments behind the old Clinchfield School and her apartment kept getting broken into. He stated that she had called the police department, but had not heard back from them concerning the items taken. He stated that the police department had not even been to her residence to take fingerprints or investigate the matter, that reports had been taken over the phone.

The Police Chief stated that he had talked with both Mr. Lowery and his daughter on several occasions concerning the stolen mail. He stated that the check reported stolen was forwarded to his new address and eventually delivered, however, as for the jewelry, he had not seen a bill and could not prove that the jewelry had been delivered. He stated that he had even written to the jewelry company to ask for a copy of the bill but had received no response. He stated that the situation was very confused and he had no proof of a crime at this point.

Mr. Lowery stated that he had called the police department for the officer they had been working with several times and was told he was on the night shift and could not reach him. He stated that his daughter had a bill for the jewelry to give them.

The Police Chief stated that since Mr. Lowery's daughter was over eighteen, he could not deal with anyone but her concerning the crime.

Mr. Lowery stated that he was concerned about how the law was being carried out, that things were not like they used to be, that it seemed that nothing could be done when something happened.
Mayor Clark stated that he was aware of the situation and had talked with the Police Chief and all he could do was to ask him to follow up on the matter.

MR. HAROLD SIMMONS AND MR. WENDELL BROOKSHIRE - COMPLAINT: Mr. Harold Simmons and Mr. Wendell Brookshire appeared before Council concerning problems with garbage in the neighborhood and dogs running loose. They had pictures of the area and presented those to Council.

The City Manager explained to Mr. Simmons about the policy for dogs. The Police Chief stated that if he knew the owner of the dog, they could go from that. He also stated that if a dog was removed from the cage, they could also get a

warrant. Mr. Simmons stated that he had a small dog and was afraid to put it outside.

Mr. Simmons asked about dog taxes through the County. The City Manager stated that quite a few years ago, the City tried to license the dogs, but there were always so many dogs that no one would claim and they were the ones causing problems. He stated that it took more time than it was worth.

Mr. Simmons stated that he just wanted Council to be aware that he was having a problem.

Mayor Clark thanked Mr. Simmons for coming to the meeting and told him that they would work on the problem.

PUBLIC HEARING - INSTALLMENT FINANCING CONTRACT - PROPOSED FIRE STATION: The City Manager opened a public hearing for the purpose of getting public input on the proposed use of an Installment Financing Contract as allowed under N.C.G.S. 160A-20 for the construction of a new fire station.

The City Manager stated that a notice of the Public Hearing had been published in the McDowell News January 23, 1992 inviting all interested persons to come.

The City Manager stated that the total cost of the project would be approximately $500,000.00 and the City proposed to finance $400,000.00. He stated that the additional funds would come from the Capital Reserve Fund of the City.

The City Manager stated that he had requested ten proposals for financing and received three. He stated that the contract was awarded to Southern National Leasing Corporation in the amount of $400,000 at a fixed rate of 6.47 percent for a period of ten years continent upon approval by the Local Government Commission. The total payback of the funds borrowed would be $555,637.90.

The City Manager outlined the steps necessary for submitting the bid package to the Local Government Commission. He stated that the package had to be received by the Commission twenty one days in advance of their next meeting.

There was no one present concerning the public hearing.

The public hearing was closed.

REQUEST FOR REIMBURSEMENT OF FUNDS - SEWER BLOCKAGE - MR. BILLY PIERSON: Mr. Billy Pierson appeared before Council and requested a refund of $708.39 for labor and two days work in the amount of $220.00 for problems with a sewer blockage that was the fault of the City.

Mr. Pierson stated that he ran a tape in the line and could not find a problem. He stated that he did everything that he knew he could do and finally had the sewer line uncovered. He stated that the problem was at the connection where the City line dropped slightly which kept the sewage from running through the line.

A short discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to reimburse Mr. Billy Pierson $708.39 for labor for the sewer blockage.

REQUEST FOR SEWER SERVICE - APARTMENTS OUTSIDE THE CITY LIMITS - MR. TOM GOUGE: The City Manager stated that he had received a request for sewer service from Mr. Tom Gouge for apartments he owned on Garden Creek road just outside the City Limits.

The City Manager stated that the Utility Committee had met regarding this matter and would recommend that the request be approved with the connection being totally at Mr. Gouge's expense and that he be charged the regular tap fees and system development fees charged by the City.

Upon motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to allow the connection subject to the recommendations of the Utility Committee.

FIVE LANE SEWER SERVICE - PROBLEMS: The City Manager stated that at this time there were several homes and businesses which had not connected to the water and or sewer system on the Five Lane.

He stated that the sewer line and facilities had been installed because of problems with septic tanks in the area, however, a large number of request for exceptions had been received and processing was becoming quite some burdensome. He stated that Council had tree options as follows with regard to connection:

1. Grant Utility Committee authority to continue to deal with individual cases.

2. Establish a date in the future at which time all persons or businesses must be connected.

3. Adopt an ordinance establishing a monthly charge based on the availability of service.

Councilman Little stated that he felt that the availability charge was the reasonable thing to do since the line was put there to serve everyone.

Mayor Clark stated that the line was put in to clean up unsanitary conditions and it seemed that everyone should be required to connect. He stated that if a monthly charge was placed on the persons, the problem would still exist. He stated that it would seem that the Health Department would help the City have these persons connect.

Councilman Stronach asked if the City could charge the availability charge. He was advised that several cities do. He stated that if they decided on a charge, it would have to be high enough so the people would have an incentive to connect.

Councilman Cross stated that he felt the past Utility Committee had handled the decisions well, however, he felt the new Utility Committee needed to meet and discuss a possible charge for the availability charge before a recommendation could be made.

WATER/SEWER TAPS - PROPOSED FEES: The City Manager presented a listing of proposed tap fees to Council. He stated that the cost of the materials had increased and in some cases, it cost the City more to put the tap in than they were collecting in fees.

The City Manager stated that the Public Works Director had some questions regarding Fire Protection Lines. He stated that if the City made the connections and laid the lines, they would be responsible for maintenance. He asked if the City should only make the connection and let the owner install the necessary check valves and back flow preventors.

A short discussion followed. Council agreed for the Utility Committee to look at the schedule [illegible] and the [illegible] protection lines.

WATER/SEWER LINE EXTENSIONS POLICY: The City Manager stated that he would like to propose that Council adopt a policy for water and sewer line extensions where the written application would be submitted to the City Manager - he and the Public Works Director would send the application to the City Engineer for a preliminary recommendations such as line size, location of manholes, valves, etc. If the engineer sees no problem, the application would be presented to Council for approval and the developer may proceed. He stated that this process would be at no cost to the City and the developer would be required to pay all tap fees and system development fees.

The City Manager stated that he nor the Public Works Director had enough expertise to know the effect of the connection to the City water lines and the engineer had the entire system on a computer and would know in a matter of minutes what the effect would be. He stated that the engineer would have to become involved in the matter [illegible] state [illegible] before construction could begin.

A short discussion followed concerning the amount of fee the engineer would charge. The City Manager was asked to find out how much the fee would be.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to accept the recommendation of the City Manager concerning a policy that all applications be sent to the City Engineer for a preliminary review before presenting the applications to Council.

DOWNTOWN TREES - DECISION: The City Manager stated that he had been advised that if the Bradford Trees located on Main Street were going to be replaced and replanted at another location, transplanting would need to be done at this time.

The City Manager stated that it had been proposed that the Bradford Pears be replaced with Foster Holly II trees. He stated that the Bradford Pears could be transplanted at the Waste Treatment Plant to help shield the plant from view of motorists.

Councilman Stronach asked for a cost for transplanting and replacing the trees. He was advised that the replacement trees would be $30.00 per tree and the cost

for transplanting would be labor only.

Ms. Freddie Killough stated that the Downtown Business Association supported replacement of the Bradford Pears with Foster Holly trees. She brought pictures of the Foster Hollys that were eight years old. She stated that these trees were being used in downtowns everywhere. She stated that the growth would be at the bottom of the tree and would not shield the street lights as the Bradford Pears did.

Councilman Cross made a motion to replace the Bradford Pears with Foster Hollys. The motion was seconded by Councilman Ayers.

Councilman Ayers asked if the proposal had been submitted to the Tree Board. He was advised that the City had talked to the Chairman, however, the proposal had not been brought before the board.

Councilman Tyler stated that if the trees were taken out, it would have to be done carefully to save the tree. He stated that it may be cheaper to replace the trees to be transplanted.

The City Manager stated that the conduit with the electrical wires would have to be uncovered to prevent damage to the power line and the tree could be removed at the same time.

Councilman Ayers stated that he would like to have the input of the Tree Board.

Councilman Cross withdrew his motion and Councilman Ayers withdrew his second until the Tree Board could be contacted.

EAST MARION JUNIOR HIGH SCHOOL - PARENT TEACHER ORGANIZATION-REQUEST TO PLACE BANNER: The City Manager presented a request from East Marion Junior High School to place a banner over Main Street from March 27 to April 6.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to place said banner March 27 to April 6.

SANITATION WORKERS APPRECIATION DINNER - McDOWELL CLEAN COUNTY SYSTEM: The City Manager stated that he had received a request from the McDowell Clean County System to use the Marion Community Building without charge for the Sanitation Workers Appreciation Dinner.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to allow the McDowell Clean County System to use the Marion Community Building without charge for the Sanitation Workers Appreciation Dinner.

APPOINT ONE MEMBER - ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION: The City Manager stated that his term on the Isothermal Planning and Development Commission would expire in April.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to reappoint J. Earl Daniels, City Manager to the Isothermal Planning and Development Commission Board for a three year term.

INSPECTION OF MUNICIPAL BRIDGES - RESOLUTION -MUNICIPAL/STATE AGREEMENT: Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adopt the following Resolution and enter the agreement with the Department of Transportation for inspection of the municipal bridges.

RESOLUTION
BRIDGE INSPECTIONS

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 4th day of February, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

NATIONAL ORGANIZATION ON DISABILITIES - CONSIDERATION TO JOIN - APPOINTMENT OF REPRESENTATIVE: The City Manager stated that he had received a letter from Mr. James Brady requesting that the City join the National Organization on Disabilities.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to decline the invitation.

CROSS MILLS - REQUEST FOR REFUND - CERTAIN TAXES: The City Manager stated that they had received a request from Cross Mills for a refund of taxes in the amount of $2,714.90 for taxes billed for property located outside the City Limits.

The City Manager stated that the Tax Collector had been in contact with Mr. Bill Campbell of the Institute of Government and asked if the refund could be applied to the amount of taxes Cross Mills owed the City. She had been advised that since the Mill was under bankruptcy, a check had to be issued, however, the City had sixty days to issue the check.

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to refund the amount of taxes due but to hold the refund for the sixty days.

JOINT MEETING - McDOWELL COUNTY, TOWN OF OLD FORT AND CITY OF MARION: The City Manager stated that a Joint Meeting of the three governing bodies had been set for Thursday, February 20, 1992 at 7:00 P.M. in the Kiwanis Building.

TINY BABY MISS CAROLINA SWEETHEART - REQUEST TO SPONSOR: The City Manager stated that he had received a letter from Ms. Luisa Robideaux requesting that the City sponsor her daughter in the Tiny Baby Miss Carolina Sweetheart Finals in Raleigh later this month to be held on [illegible]. All proceeds would go the Cystic Fybrosis Foundation.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to express their congratulations to Ms. Robideaux's daughter, however the City would be unable to make this type of contribution.

WATER/SEWER - PROPOSED PROJECTS: The City Manager presented a breakdown of the proposed various water and sewer projects to Council.

A Special Meeting was set for Wednesday night, February 5, 1992 at 7:00 P.M. to discuss the projects and financing.

EXECUTIVE SESSION - PERSONNEL MATTER: Upon a motion by Councilman Ayers, seconded by Councilman Stronach, Council voted unanimously to go into Executive Session to discuss a Personnel Matter.

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

APPOINTMENT OF ACTING FIRE CHIEF: The City Manager stated that according to the City Charter, the City Manager would recommend the appointment of a Fire Chief to Council and Council would make the appointment.

The City Manager stated that he would like to recommend that Mr. Tom Milligan be

appointed Acting Fire Chief effective at 5:00 P.M., March 27, 1992 upon the retirement of Fire Chief Arthur Edwards.

Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to appoint Mr. Tom Milligan Acting Fire Chief effective at 5:00 P.M., March 27, 1992 upon the retirement of Fire Chief Arthur Edwards.

APPOINTMENT OF ACTING ASSISTANT FIRE CHIEF: The City Manager stated that with the appointment of Tom Milligan as Acting Fire Chief, the Assistant Fire Chief position would be vacant. He stated that he would like to recommend that Mr. Mack Laughridge be appointed Acting Assistant Fire Chief effective at 5:00 P.M., March 27, 1992 upon the retirement of Fire Chief Arthur Edwards.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to appoint Mr. Mack Laughridge Acting Assistant Fire Chief effective at 5:00 P.M., March 27, 1992 upon the retirement of Fire Chief Arthur Edwards.

The City Manager stated that he would also like to recommend that the Fire Department maintain four paid positions and not advertise for an additional position. He stated that the reasonsing behind this recommendation would be the installation of the 911 Emergency System and the fire department not having to handle outside alarms as they had in the past.

ADJOURNMENT: Upon a motion by Councilman Tyler, seconded by Councilman Cross, Council voted unanimously to adjourn until Wednesday night at 7:00 P.M.

RECONVENE - REGULAR SESSION: The City Council reconvened in Regular Session on Wednesday night, February 5, 1992 at 7:00 P.M. in the City Council Chamber.

Council discussed various water and sewer projects which included:

1. Raw water lake.
2. One millions gallon clear-well.
3. Replacement of Clinchfield Waste Treatment Plant with a pumping station.
4. Installation of chlorinator and declorinator facilities at the Catawba River Waste Treatment Plant.
5. Lime stabilization of sludge at the Corpening Creek Waste Treatment Plant.

Council discussed each of the projects and methods of collection for financing the projects.

The City Council also reviewed information submitted by Mr. Dennie Martin of McGill Engineering concerning a percentage of rate increase necessary to cover financing costs for the projects.

No action was taken.

ADJOURNMENT: Upon a motion by Councilman Little, 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

February 18, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, February 18, 1992 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; Robert Parker, Personnel Director; Bill Hunnicutt, Chief Operator Waste Treatment Plant; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Buck Byrd, Chief Operator Water Filter Plant; Nora Arrowood, Police Department; Arthur O'Dear, Police Department; Bill Gilsdorf, Chief of Police; Freddie Killough, Downtown Business Association; Woody Killough, Downtown Business Association; and Sandra Queen, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. John Reese, US Forest Service; Mr. Warren Hobbs, Marion Tree Committee; Mr. Page Colley, County Intern; and Mr. Harold Saylor, Division of Health Services.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the February 8, 1992 meeting.

EPA - DRINKING WATER STANDARDS: The City Manager stated that beginning July 1992, the City would be required to collect sixty water samples from homes built since 1982 with copper water pipes. The samples must be from the first drawn water of the morning and the water must have set in the pipes for six hours. He stated that the cost would be $39.00 per sample.

Mr. Harold Saylor from the Division of Health Services stated that this ruling was one of the most controversial topics they have had to deal with.

Mr. Saylor stated that he would like to speak to Council concerning several mandates that would effect the City.

He stated that the City would be required to treat surface water which contained several micro organisms. He stated that the water had to be 99.9 percent clear of the organism. Mr. Saylor stated that the City would need to put a clearwell in at the Filter Plant to allow the chlorine to interact with the water for a longer period of time to kill the organism.

Mr. Saylor stated with regard to the Lead/Copper Rule, a lot of speculation has been that the water contained lead. He stated that lead poisoning was very dangerous in small children. He stated that in homes with copper pipes, the lead solder which got into the water if the water set for a period of time - overnight.

Mayor Clark asked why the City would be responsible since the testing would be in private homes rather than in the City system. Mr. Saylor stated that was the reason for the controversy over the ruling.

Mayor Clark stated that if copper pipes in his house was causing him a problem, he should take care of it, not the City. He stated that it would not help solve the problem if the water in the system was treated - the problem would be in the home.

The City Manager stated that he was concerned about finding that many homes in different locations in the City, and how would you know if the water had not moved for the six hours required? He stated that if a problem was found, the City would have to treat the water anyway - why not treat the water and forget the testing.

Mr. Saylor stated that the City would have to do the testing.
He stated that the inhibitor to be placed in the water may cause a problem with the water system if not needed.

Mr. Saylor stated that most everyone now was concerned about their health. He stated that diseases had been linked with the environment and that is why these rules had come about.

Mayor Clark stated that the City did not want to do anything to hurt the health of the citizens, however, he felt that there should be a better way of testing. He stated that it was frustrating to deal with the mandates - especially when there was no funding to pay for the mandates.

TREE COMMITTEE - APPOINT ONE MEMBER: The City Manager stated that Ms. Kate McClain had resigned from her position on the Marion Tree Committee. He stated that the Tree Committee had recommended that Mrs. Pat Brown be appointed in her place.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to appoint Mrs. Pat Brown to the Tree Committee.

REPLACEMENT - BRADFORD PEAR TREES: Mr. John Reese, US Forest Service stated that the Bradford Pear Trees were planted on Main Street in the late 70's. He stated that they had been a hearty tree and there had been no serious problems with the trees other than them not being taken care of as they should have.

Mr. Reese stated that he was concerned that if the trees were removed and transplanted, he had several reservations as follows:

The trees could not be removed without tearing up the sidewalk.

The survival of the trees was slim to none.

Mr. Reese stated that the tree committee felt that whatever was done, a professional person needed to be hired to take care of the trees.

Mr. Reese stated that the Tree Committee had in mind a five foot Foster Holly which would take pruning to keep it small in shape. He stated that the prices on the Foster Holly tree form plant were: $78.00; $85.00; and $120.00 per plant.

He stated that he had also asked for quotes on pruning and fertilizing as follows:
Prune 5 times - Fertilize 3 times - $30 per tree
Prune 3 times - Fertilize 1 time - $40 per tree
Prune and Fertilize - no time specified - $30 per tree

Mr. Reese stated that he had received word on a grant program that the City could apply for that would pay fifty percent of the cost of trees and up to fifty percent in "payment of kind" for the trees.

Councilman Cross asked if the Foster Holly was the best replacement for the Bradford Pears. He was advised that they were a hearty tree and would be fine for the downtown area.

The City Manager stated that the Bradford Pear Trees had been neglected by the City, only because they were not the first priority of the City. He stated that he felt that the trees should be transplanted.

Mr. Reese stated that the Tree Committee recommended that the trees be cut down and to grind the stump.

Mr. Glen Sherlin stated that the conduit was in the same location and the crews could not grind the stumps down very far. He stated that he felt the City owed it to the trees to try to save them.

Mr. Warren Hobbs stated that he felt that the replacements should be a trunk of no more than four feet and to limit the growth at the top so the store fronts would not be blocked. He stated that if a shrub type tree was placed on the street there would be problems with car doors and would block the view of the traffic. He stated that every fifteen years, the trees would have to be overhauled. He stated that the lights on the shrubs would look nice at Christmas, but that was only six weeks of the year.

Councilman Cross made a motion to replace the Bradford Pear Trees with five foot Foster Hollys, to pursue the possibility of a grant to help with the cost of the trees and to maintain a professional landscaper to take care of the trees. The motion was seconded by Councilman Little. The vote was as follows: Ayes: Councilmen Cross, Little, Stronach and Ayers. Noes: Councilman Tyler.

Councilman Ayers stated that he had received a request from Marion Elementary for the trees if the City could not use them all. The City Manager stated that he had received requests from the Recreation Commission, and The Garden Clubs.

It was decided to move the trees to the Corpening Creek Waste Treatment Plant as originally planned.

CLINCHFIELD WASTE WATER PLANT - FINES: The City Manager stated that the Clinchfield Waste Water Plant had been fined $6,100.00 in connection with the Treatability Study with Galey and Lord. He stated that the fine was the result of a letter not being turned in to Raleigh with test results. The City Manager stated that the letter was not submitted because at that time, there was nothing to report. He stated that he had received a letter stating that the fine had been

reduced to $3,000.00.

Councilman Little stated that he felt that Galey & Lord should pay the bill because the City would not have been fined if they were not trying to help them.

Councilman Little made a motion to pay the fine and bill Galey and Lord for the same amount. The motion was seconded by Councilman Ayers.

Councilman Stronach stated that the only reason the City was fined was because a letter was not sent in and there was nothing to report. He stated that he would be in favor of going to Court. He stated that there was some reason the fine was reduced and the whole matter of the fine was inappropriate.

Mayor Clark stated that he agreed with Councilman Stronach, that the City set the limits for Galey & Lord and they were not happy with the limits and they were the reason for the fine.

The City Manager stated that the City was technically in violation because the letter was not mailed. He stated that the environment was not harmed in any way because of the letter not being mailed and the City should not have been fined. He stated that if Galey & Lord were billed for the fine, they would argue that it was the City's fault.

Councilman Little stated that he would like to withdraw his motion and request that the City follow the Court case. Councilman Ayers withdrew his second.

The City Manager was directed to talk to the City Attorney for an estimate of cost and his opinion of the matter.

The City Manager stated that the Clinchfield plant had also been fined again for a high level of BOD. He stated that the plant was getting more water in than they could handle.

Mr. Bill Hunnicutt stated that he recommended that the City take the plant out and replace it with a pumping station. He stated that the waste water would be pumped to Corpening Creek for treatment.

The City Manager stated that in talking with the State, he was told that preliminary looks at the Treatability Study revealed that Galey & Lord would not get the results they were looking for and it would be reasonable to ask them to participate in the cost for converting the plant to a pump station rather than them having to put in their own pretreatment system.

The discussion continued. The City Manager was directed to write a letter to the State and ask that the fine be forgiven and the money for the fine be used to help with converting the plant to a pumping station.

RESOLUTION - AUTHORIZING APPLICATION FOR A GRANT FROM THE ECONOMIC DEVELOPMENT ADMINISTRATION: Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to approve the following Resolution:

CITY OF MARION
A RESOLUTION FURTHER AUTHORIZING APPLICATION FOR A GRANT
FROM THE ECONOMIC DEVELOPMENT COMMISSION

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

1. That the City Manager of the City of Marion, North Carolina is hereby authorized to apply to the Federal Economic Development Administration for a grant, such grant to be for the purpose of funding or partially funding any and all projects, including but not limited to capital projects, which form a part of the infra-structure improvement needed for the construction of a prison in McDowell County, North Carolina. Such authorization shall include, but is not limited to, completing and executing an application for such grant funding.

2. This resolution authorizes the said City Manager to pursue such grant funding through Federal Economic Development Administration, including all things necessary or proper to pursue such grant funding, including but not limited to, accepting funding through or from the said Federal Economic Development Administration.

ADOPTED this the 18th day of February, 1992.

H. Everette Clark

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

POLICY - DRUG FREE WORK PLACE: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Policy:

DRUG FREE WORK PLACE

It shall be the policy of the City of Marion to provide a drug free work place in accordance with the Drug Free Work Place Act of 1988.

This policy includes as a minimum the following:

1. Employees of the City of Marion are hereby notified that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited while on City grounds, at all work sites, and as operator or passenger of a City vehicle. This will also include anytime an employee is being compensated -be it at work, at school, or at a conference.

   (Controlled substance, as noted above, is defined in the North Carolina General Statutes or 21 U.S.C. subsection 812).

   Any employee found in violation of this policy will be subject to actions as described in the City of Marion Personnel Policy - Article X, Section 3, Subsection B.

   The City of Marion will not differentiate between drug users and drug sellers. Any employee who gives or in any way transfers or aids and abets in the transfer of a controlled substance to another person or sells, manufactures, or aids and abetting the sale of a manufactured or controlled substance while on City grounds, work sites etc. will be subject to discipline as described in the City of Marion Personnel Policy and/or any state and/or federal laws that are applicable.

2. The City will establish a drug free awareness program to inform employees about:

   a. The City of Marion policies related to the subject;

   b. The dangers of drug abuse in the work place;

   c. The availability of material, counseling, and rehabilitation;

   d. The penalties that may be imposed for drug abuse violations.

3. As a condition of employment and/or continued employment, each employee will:

   a. Abide by the terms of this policy;

   b. Notify the employer of any criminal drug statute conviction for a violation occurring in the work place no later than five (5) days after such conviction.

ADOPTED this the 18th day of February, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

POLICY - EEOC STATEMENT: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following policy:

EEOC STATEMENT

It shall be the policy of the City of Marion to foster, maintain, and promote equal opportunity. The City shall select employees on the basis of applicant's qualifications and ability to carry out essential job functions. This will be done without regard to age, sex, race, color, creed, religion, disability,

political affiliation or national origin.

The City shall not discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

ADOPTED this the 18th day of February, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager

MARION FABRICS - SEWER SYSTEM DEVELOPMENT CHARGE: The City Manager stated that Marion Fabrics had been billed a Sewer System Development Charge for three meters which they had installed from the private wells that were discharging to the City system.

The City Manager stated that Marion Fabrics had requested that they be billed for $8,000.00 payable at $1,000.00 per month beginning with the March water bill, rather than the $22,500.00 for a sewer system development charge since the three meters were installed, instead of one meter because of the plant plumbing system.

The City Manager stated that this was a reasonable request since the line serving the meters was a three or four inch line.

The City Manager stated that the Utility Committee had met with representatives from Marion Fabrics and they recommended that Marion Fabrics be billed $8,000.00 as requested.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to bill Marion Fabrics $8,000.00 for a sewer system development charge at $1,000.00 per month beginning with the March water bill.

The City Manager stated that he had billed Marion Fabrics for a water system development charge but not a sewer system development charge for the water service that was recently installed at Marion Fabrics. He asked if Council would like them to be billed. Council agreed not to bill Marion Fabrics for a sewer system development charge since a water system development charge.

ORDINANCE - ESTABLISHING NEW WATER/SEWER CONNECTION FEES: Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

ORDINANCE ESTABLISHING NEW WATER/SEWER CONNECTION FEES

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

Section 1. That new water/sewer connection fees are hereby established as follows:

WATER SERVICE CONNECTION FEES:

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
3/4" Meter	$ 400.00	$ 800.00
1" Meter	550.00	1,100.00
1-1/2 Meter	1,000.00	2,000.00
2" Meter	1,500.00	3,000.00
3" Meter	3,500.00	7,000.00
4" Meter	4,000.00	8,000.00
6" Meter	5,500.00	11,000.00

Tap Fees (Domestic Water Service):
The Charge listed for a 3/4" domestic water service includes the cost for installation of a back-flow preventor required by the City.

THE CHARGE TO ADD A 3/4 INCH BACK-FLOW PREVENTOR TO AN EXISTING DOMESTIC SERVICE IS AS FOLLOWS:

	INSIDE CITY	OUTSIDE CITY
DOMESTIC BACK-FLOW PREVENTOR	$ 10.00	$ 20.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES, AND RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS.

SIZE	SERVICE	INSIDE CITY	OUTSIDE CITY
2"	Service	$ 1,000.00	$ 2,000.00
3"	Service	2,500.00	5,000.00
4"	Service	3,000.00	6,000.00
6"	Service	3,500.00	7,000.00
8"	Service	5,000.00	10,000.00

ALL CONNECTIONS TO THE CITY WATER SYSTEM SHALL BE EQUIPED WITH A PROPER CHECK-VALVE AND/OR BACK-FLOW PREVENTOR APPROVED BY THE CITY PUBLIC WORKS DIRECTOR OR CITY ENGINEER PRIOR TO INSTALLATION. IT SHALL BE THE RESPONSIBILITY OF THE OWNER TO HAVE THE APPROVED CHECK-VALVE OR BACK-FLOW PREVENTOR INSTALLED. IN ADDITION, THE WONER OF ALL PROPERTIES CONNECTED TO THE CITY WATER SYSTEM, EXCEPT DOMESTIC SERVICES, SHALL SUBMIT A LETTER TO THE CITY WATER DEPARTMENT ON OR BEFORE THE FIRST DAY OF JULY EACH YEAR CERTIFYING THAT THE CHECK-VALVE AND/OR BACK-FLOW PREVENTOR HAS BEEN CHECKED AND IS OPERATING PROPERLY.

CHARGE FOR CHANGE OF WATER SERVICE AND/OR RELOCATION OF WATER SERVICE:

	INSIDE CITY	OUTSIDE CITY
REQUIRED BY CITY	NO CHARGE	NO CHARGE
REQUEST BY OWNER	AT COST	COST PLUS 10%

SEWER SERVICE CONNECTION FEES:

SIZE	SERVICE	INSIDE CITY	OUTSIDE CITY
4"	Service	$ 750.00	$ 1,500.00
6"	Service	900.00	1,800.00

Section 2. This Ordinance shall become effective March 1, 1992 and apply to all new applications for water and/or sewer connections.

ADOPTED this the 18th day of February, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to rescind the following portions of the Ordinance entitled Utility Fees adopted May 16, 1989:

PORTIONS OF ORDINANCE TO BE RESCINDED

WATER AND SEWER	INSIDE	OUTSIDE
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	
Tap Fees (Sewer)		
4" line	200.00	400.00
6" line	250.00	500.00
over 6"	case by case	
Change of Water Service Line Location (Instituted by Owner):		
3/4" meter	150.00	150.00
over 3/4"	case by case	
Backflow Preventor for		

Change of Service	10.00	10.00
Boring Under the Street (added to Tap Fee or Change of Service Fee): 3/4" meter Cost + 10%	10.00 LF	10.00 LF over 3/4" meter

PORTIONS OF THE ORDINANCE ADOPTED MAY 16, 1989 REMAINING IN EFFECT:

UTILITY FEES

WATER & SEWER	**INSIDE**	**OUTSIDE**
1. Prepayment - new accounts	$ 30.00	$ 60.00
2. Reinstatement Account (after Payment of unpaid balance)		
a. If water was turned off at meter	15.00	15.00
b. Return by meter service man	10.00	10.00
3. 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 Charge	15.00	15.00

WATER SYSTEM DEVELOPMENT CHARGES BY METER SIZE:

METER SIZE	**SYSTEM DEVELOPMENT CHARGE**
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 Negociated with City
10"	To Be Negociated with City

SEWER SYSTEM DEVELOPMENT CHARGES BY METER SIZE:

METER SIZE	**SYSTEM DEVELOPMENT CHARGE**
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 Negociated with City
10"	To Be Negociated with City

WATER AND SEWER LINE EXTENSIONS - POLICY: Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to adopt the following policy concerning Water and Sewer Line extensions and to give McDowell County notice that the Joint Water and Sewer Line Extension Policy adopted November 3, 1987 is rescinded.

CITY OF MARION
POLICY
WATER AND/OR SEWER LINE EXTENSIONS

The following procedures shall be followed regarding the extension of water and/or sewer lines and appurtenancies:

STEP 1. The applicant shall request, in writing, water and/or sewer service from the City. This application shall be submitted to the City Manager. The application shall state the total number of dwelling units or commercial establishments to be served or the estimated number of gallons of water to be used per day and/or the type and total number of gallons of wastewater to be discharged to
the City Sewerage System. A location map shall be included and such other information as requested by the City Manager.

STEP 2. The application shall be presented to Council for Preliminary Approval.

STEP 3. Upon Preliminary Approval of Council, the applicant shall be provided the name, address and telephone number of the Engineering Firm employed by the City. (note: The applicant may use any licensed engineering firm of the applicants choice; however, the Engineering Firm employed by the City will have to review all plans, specifications, etc. at the applicants expense).

STEP 4. The applicant will contact the Engineering Firm and provide such maps, plats and other information as is needed by the Firm regarding the proposed water and/or sewer line extension.

STEP 5. The Engineering Firm shall review with the City Manager and Public Works Director the Preliminary Plans for any extensions and the effect on the City's Utility Systems.

STEP 6. The City Manager and Public Works Director will review the proposed project with the City Council. The City Council will give final approval or stop the project.

STEP 7. If approved by the City Council, the Engineering Firm shall provide the applicant with information concerning line sizes, locations of lines, valves, hydrants, manholes, etc. and an estimate of the cost for necessary plans, specifications, State approval and construction costs.

STEP 8. The applicant proceeds or abandons the project.

The total cost for the water and/or sewer line extensions shall be paid by the applicant(s).
All water and/or sewer lines shall become the property of the City of Marion before they are placed in service and the City of Marion shall be responsible for all maintenance on the said lines.

Adopted this the 18th day of February 1992.

A. Everette Clark, Mayor

ATTEST: J. Earl Daniels, City Manager/Clerk

ORDINANCE - FIVE LANE AVAILABILITY CHARGE: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to adopt the following Ordinance:

AN ORDINANCE RELATING TO SEWER CONNECTIONS OR SERVICE AVAILABILITY CHARGES

WHEREAS, the North Carolina Division of Environmental Management and the McDowell County Health Department encouraged the City of Marion to provide sewer service to the "Five Lane Area" (North Main Street) because of failed septic tanks or other type sewer systems; and

WHEREAS, a new Waste Water Treatment Plant has been installed, including sewer lines to provide service to the area; and

WHEREAS, sewer service has been available for approximately two years; and

WHEREAS, a large number of occupied premises have failed or refused to connect to the system; and

WHEREAS, the City of Marion has to pay the expense of maintenance and operation of the Waste Water Treatment Plant and facilities.

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

Section 1. That all owners of property located on North Main Street and U.S. Highway 70 North, within the City Limits, be notified that all occupied premises, in said area, must be connected to the City Sewer System by July 1, 1995. JCO

Section 2. That immediate connection to the City Sewer System shall be required if the septic tank or other private system serving any premises fails for any reason.

Section 3. That immediate connection to the City Sewer System shall be required of all property sold or transferred, prior to said premises being

occupied.

Section 4. That all occupied premises, excluding owner-occupied residences, not connected to the City Sewer System but located upon or within 300 feet of a City Sewer-line, be required to pay the minimum monthly charge established for sewer service based on the availability of service. Said charges to begin and be included in the March 1992 Water/Sewer Bills.

Section 5. This ordinance is effective upon adoption.

ADOPTED this the 18th day of February, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

REQUEST FOR PROPOSALS - BANKING SERVICES: The City Manager presented a package of information to Council concerning Requesting Proposals from the financial institutions in Marion. He stated that he had received several requests from the local financial institutions to bid on this service. He stated that bids had only been taken once in the last seventeen years.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to Request Proposals for Banking Services.

REPORTS:

1. **JOINT CITY OF MARION, McDOWELL COUNTY AND TOWN OF OLD FORT MEETING:** The City Manager stated that a Joint Meeting had been set for Thursday night, February 20, 1992 at 7:00 P.M. at the Old Fort Kiwanis Building.

2. **POLICE CHIEF:** The Police Chief stated that in reference to the complaint by Mr. Lowery (Minutes of February 4, 1992), he brought in a bill for the jewelry that he reported stolen. The Police Chief stated that there was still no clear indication that the jewelry was stolen. He stated that the date of the bill was prior to the date the crime had been reported to have happened.

He stated that he had a draft of the job description of a secretary for his department. He hoped to have this to the Police Committee by the end of the week.

He stated that he had received a complaint about some lights at a car dealership and had checked them, but the lights were not on. He stated that he would keep checking.

3. **COUNCILMAN STRONACH - REQUEST FOR SIDEWALKS:** Councilman Stronach stated that he had received a request for new sidewalks on Academy Street once the new building was constructed. He asked if the sidewalks were in need of replacement prior to the demolition of the existing building. Street Superintendent Aaron Adams stated that the sidewalks had been in fair shape prior to demolition of the building.

4. **SPECIFICATIONS - FIRE TRUCK:** The City Manager stated that Council had been provided with specifications of the new fire truck to review prior to bidding out the truck.

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

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

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

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

February 20, 1992

The City Council for the City of Marion met in a Special Called Session on Thursday Night, February 20, 1992, at the Old Fort Fire Department, immediately following a joint meeting with the McDowell County Commissioners and the Old Fort Aldermen.

Members Present: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Angus Stronach, and Joe Tyler.

Members Absent: Councilman Steve Little

Others Present: J. Earl Daniels, City Manger

PRISON PROJECT - EDA FUNDING - The City Manager informed Council that Council would need to take action on appropriating $150,000.00 as the City's share of Local Funds toward the cost of providing water and sewer utilities for the proposed new prison. He stated that under the Project Application, being prepared by Isothermal Planning and Development Commission, funding for the project provides for $651,900 from EDA, $200,000 from ARC, $151,900 from the State, $150,000 from McDowell County and $150,000 from the City of Marion. He stated that this would be a joint application with the City and County and that the City would own, operate, and maintain the water and sewer lines and sewer pumping station. Upon a motion by Councilman Angus Stronach, seconded by Councilman John Cross, those members of Council present voted unanimously to authorize the expenditure of $150,000.00, when needed, as the city's share of the cost for utilities for the new prison.

FINES - EMC - The City Manager informed the Council that the City had been fined for violations at the Clinchfield Waste Water Treatment Plant. One fine was for $3,000.00 for failing to submit a report under the Special Order by Consent EMC WQ 89-15 Ad, paragraph 2 (b) 2 by the date specified by the Order. The second fine was for $2,000.00 for not meeting the BOD and Total Suspended Residue parameters for the week of October 20 -26, 1991. The city was advised that if the violations were due to an act of God; and act of war; an intentional act or omission of a third party..; an extraordinary event beyond the permittee's control...; or any combination of said events, the City may submit evidence in support of such a claim for consideration. The City Manager stated that the second fine was the result of a third party, or parties unknown, shock-loading the plant. He advised Council that when the plant is shock-loaded it will continue to be in violation of the NPDES Permit. He stated that efforts to determine how the plant is being shock-loaded have not produced any concrete results but the investigation is continuing. Upon a motion by Councilman Angus Stronach, seconded by Councilman Joe Tyler, those member of Council present unanimously voted to pay the first fine in the amount of $3,000.00, but to appeal the second fine.

There being no further business, the meeting was adjourned.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 3, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, March 3, 1992 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; Glen Sherlin, Public Works Director; Bill Gilsdorf, Chief of Police; Freddie Killough, Director, Downtown Business Association; Woody Killough, President, Downtown Business Association; Sandra Queen, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

APPROVAL OF MINUTES: Upon a motion by Councilman Stronach, seconded by Councilman Tyler, Council voted unanimously to approve the minutes of the February 18 and February 20, 1992 meetings.

PETITION FOR ANNEXATION - RIVERSIDE FOOD MART: The City Manager presented a letter from Mr. Anthony Castorio of the Riverside Food Mart requesting that his property be annexed. The property is located on Hwy 70 W past the McDowell Square Shopping Center and the entrance to West McDowell Jr. High school on the left hand side of the road.

The City Manager stated that the closest sewer line would be at the intersection of the By-Pass and it would be expensive to run water and sewer lines to the property. He stated that Mr. Castorio stated in his letter that he would not request water and sewer services, however, by law, those services must be under contract for construction within two years following the date of annexation.

A short discussion followed.

Upon a motion by Councilman Stronach, seconded by Councilman Little, Council voted unanimously to deny the request because the City was financially unable to annex that area at this time.

REQUEST TO HANG A BANNER - NATIONAL 4 - H WEEK: The City Manager presented a request from Ms. Donna Hobbs, Extension Agent - 4-H requesting that a banner be hung over Main Street from October 2 through October 12 in recognition of National 4-H Week.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to allow the banner to be hung as requested.

REQUEST TO HANG BANNER - BOY SCOUT SHOW: The City Manager presented a request from Ms. Joyce Rumfelt, Boy Scout Show Chairman to hang a banner across Main Street from March 13 through March 30 advertising the Boy Scout Show.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to allow the banner to be hung as requested.

SIGNS AND BANNERS ACROSS MAIN STREET - ORDINANCE: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

AN ORDINANCE AMENDING
CITY OF MARION CODE SECTION 15-139
SIGNS AND BANNERS ACROSS MAIN STREET PROHIBITED

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

Section 1. That section 15-139 of the Marion City Code be deleted in its entirety and replaced with the following:

It shall be unlawful for any person to hang, suspend or otherwise place any sign or banner over and across any of the streets of the City. This section shall not apply to Christmas decorations approved by the City Manager on an individual basis.

Section 2. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 3rd day of March, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

TAX REFUND - MR. JOSIAH WALTER BAGWELL III: The City Manager presented a request for a refund for taxes for Mr. Josiah Walter Bagwell III from Ms. Claudia Hill, Tax Collector.

Mr. Bagwell was billed for personal property in the amount of $40.59 which was paid in full in December of 1991. Mr. Bagwell's mailing address is 403 South McDowell Avenue (his parent's home) but he actually resides at Davis Apartments located on 221 North, outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to refund Mr. Josiah Walter Bagwell III $40.59 for taxes paid for personal property located outside the City Limits.

TAX REFUND - CROSS MILLS, INC.: The City Manager presented a memorandum from Ms. Claudia Hill, Tax Collector requesting a refund and release of taxes for Cross Mills in the amount of $4,462.63 for clerical errors resulting in double taxation of property owned by Cross Mills.

Ms. Dianne Allred of McDowell County Tax Office confirmed that Cross Mills had been double taxed from 1987 to 1991.

The memorandum stated that if agreed on by Cross Mills Creditor Committee, this amount would be applied to the amount of taxes due the City rather than a check being issued. (Mr. Bill Campbell of the Institute of Government had advised that since Cross Mills was in bankruptcy, a check must be issued).

Upon a motion by Councilman Stronach, seconded by Councilman Ayers, Council voted unanimously to approve the refund and apply the amount due to the taxes owed by Cross Mills if approved by Cross Mills Creditor Committee.

RESOLUTION - AMENDMENT TO SECTION 125 PLAN: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

A RESOLUTION AMENDING THE RESOLUTION ENTITLED "CITY OF MARION RESOLUTION - SECTION 125 PLAN"

BE IT RESOLVED by the City Council of the City of Marion as follows:

Section 1. That Article 4, Available Benefits, of "City of Marion Resolution - Section 125 Plan" be deleted in its entirety and amended as follows:

4.01 Benefits available to be selected by eligible employees shall be indicated below:

Employee & Dependent Medical Insurance
Employee Life Insurance
Employee & Dependent Dental Insurance
Employee & Dependent Cancer Insurance
Employee & Dependent Intensive Care Insurance

Section 2. This Resolution shall be in effect upon its adoption.

ADOPTED this the 3rd day of March, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

DOWNTOWN BUSINESS ASSOCIATION - REQUEST FOR EASTER BONNET PARADE AND TO USE CITY PARK OR COMMUNITY BUILDING BASEMENT FOR EASTER EGG HUNT: Ms. Freddie Killough, Director of the Downtown Business Association asked Council for permission to have an Easter Bonnet Parade and an Easter Egg Hunt in the City Park or in the Basement of the Community Building in the event of rain on Saturday, April 11, 992.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to approve the use of the City Park or Community Building Basement as requested.

DOWNTOWN BUSINESS ASSOCIATION - PLANS FOR CITY PARK: Ms. Freddie Killough, Director, Downtown Business Association stated that she and Ms. Donna Stevens, McDowell Clean County System had met earlier today with Mr. Glen Sherlin, Public Works Director concerning clean up of the City Park. She stated that as a project for the Sesquicentennial Celebration, the Clean County System agreed to coordinate beautification of 150 spots - one of which was the City Park.

Ms. Killough stated that she and Ms. Stevens would be glad to work with a committee on cleaning the area. She stated that these two agencies would get

Community Service Workers to help with the project.

A short discussion followed. It was agreed to have the Community Building Committee serve with Ms. Killough and Ms. Stevens on this project.

MAINTENANCE CONTRACT - OAK GROVE CEMETERY: The City Manager stated that Mr. G.K. Mease, ServiceMaster Lawn Care had stopped by his office and stated that he would continue the maintenance contract for Oak Grove Cemetery at the same price charged last year.

A short discussion followed. The contract would run from April to September and the price quoted was $3,500.00 per month. The City Manager stated that he had not received any complaints on the work they did last year.

Upon a motion by Councilman Little, seconded by Councilman Stronach, Council voted unanimously to continue the contract with ServiceMaster Lawn Care for maintenance of Oak Grove Cemetery at $3,500.00 per month from April 1992 to September, 1992.

ADVERTISE FOR BIDS - SURPLUS PROPERTY: The City Manager stated that the City had three rear loading dumpsters that were surplus to the City and asked permission to advertise for bids.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to allow the City Manager to advertise for bids for the dumpsters and allow the City Manager to accept the highest bid.

REMOVAL OF TREES - CRAWFORD STREET: The City Manager stated that some trees had fallen into the branch at Crawford Street behind the Senior Center. He asked if the City could remove the trees and the others that were in danger of falling.

Council was in agreement to remove the fallen trees and to cut the others. They asked that the City get permission from the adjoining property owner.

COUNCILMAN LITTLE - REPORT: Councilman Little stated that he had been appointed by the League of Municipalities to serve on the Energy, Environment, and Natural Resources Committee in Councilman Stronach's place.

WATER AND SEWER PROJECTS: The City Manager presented a listing of various water and sewer projects that were being mandated for the City.

The City Manager stated that there was a possibility that Public Works Funds would be made available by the Federal Government, but the City needed to have the plans and specifications for these projects in hand.

The City Manager recommended that the City pursue Revenue Bonds to provide funding for the project.

The discussion continued.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to authorize McGill Associates to draw plans and specifications for the projects and to authorize the City Manager to contact the Local Government Commission regarding Revenue Bonds.

WATER/SEWER RATES: The City Manager presented a proposed rate increase schedule to the City Council. The proposal included increases based on the consumption of water and an increase in the fixed amount of the bill.

A discussion followed. Council felt that the fixed amount of the bills should be increased since that revenue would be there if a major consumer such as a plant closed and the income was lost.

The discussion continued, but no action was taken.

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

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

MARCH 12, 1992

The City Council for the City of Marion met in Special Session on Thursday evening, March 12, 1992 in the City Council Chamber.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director.

OTHERS PRESENT: Charles Presnell, Jim Neal, and Kevin Owenby of the Marion Fire Department.

1991-92 BUDGET ORDINANCE AMENDMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, the Board voted unanimously to adopt the following amendment:

1991-92 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 1991-92 as adopted by the City Council on the 27th day of June, 1991, and as amended on August 6, 1991 and October 22, 1991, is hereby amended as follows:

Section 1. General Fund Revenues, Account Number 10-399-00, Surplus Appropriated is increased from $245,145. to $351,733. by a supplemental appropriation of $106,588.

Section 2. General Fund Expenditures, Non Departmental, Transfer to Capital Project Budget - Central Fire Station, Account Number 10-660-98 is increased from $00. to $106,588.

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 12th day of March, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

ORDINANCE # 0-92-03-12-01

CAPITAL PROJECT BUDGET ORDINANCE - CENTRAL FIRE STATION: Upon a motion by Councilman Little, seconded by Councilman Stronach, the Board voted unanimously to adopt the following ordinance:

CAPITAL PROJECT BUDGET ORDINANCE
CENTRAL FIRE STATION

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

Section 1. The following amount are hereby appropriated in the Capital Project Budget - Central Fire Station - for the construction of a new fire station, including architect fees, administrative and technical services:

Construction Costs	$476,035
Architect Fees	17,622
Travel	580
Plans, Specification, Copies	1,930
Postage	180
Contingency	10,241
Total	$506,588

Section 2. It is estimated that the following revenues will be available for the Project:

City Funds Available	$106,588
Proceeds under Bank Line of Credit	400,000
Total	$506,588

Section 3. Copies of the Capital Project Ordinance -Central Fire Station - shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 12th day of March, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Ordinance # 0-92-03-12-02

RESOLUTION - DEED OF TRUST AND NOTE AGREEMENT - CENTRAL FIRE STATION: Upon a motion by Councilman Stronach, seconded by Councilman Cross, the Board voted unanimously to adopt the following resolution:

RESOLUTION

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

Section 1. That Mayor A. Everette Clark and City Manager J. Earl Daniels are hereby authorized to execute, on behalf of the City of Marion, and all documents relating to the Deed of Trust and Note Agreement by and between the City of Marion and Southern National Leasing Corporation relating to an Installment Purchase Contract for the Construction of a new Central Fire Station.

ADOPTED this the 12th day of March, 1992.

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Resolution # R-92-03-12-01

RESOLUTION - DESIGNATION AS A QUALIFIED TAX EXEMPT OBLIGATION FOR PURPOSES OF SECTION 265(B)(3) OF THE INTERNAL REVENUE CODE OF 1986: Upon a motion by Councilman Little, seconded by Councilman Ayers, the Board voted unanimously to adopt the following resolution:

RESOLUTION

THAT WHEREAS, the City of Marion through its duly appointed City Council has agreed to enter into a Deed of Trust and Note Agreement with Southern National Leasing Corporation in the amount of Four Hundred Thousand Dollars ($400,000.00);

WHEREAS, the said Deed of Trust and Note Agreement to be dated March 16, 1992 is a tax-exempt obligation pursuant to the Internal Revenue Code of 1986;

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

The aforesaid Deed of Trust and Note Agreement, bearing the date of March 16, 1992 by and between the City of Marion and Southern National Leasing Corporation together with the amount to be paid thereunder, be and the same is hereby designated as a qualified tax exempt obligation for purposes of Section 265 (b)(3) of the Internal Revenue Code of 1986.

ADOPTED this the 12th day of March, 1992.

CITY OF MARION

By: _____
Mayor (Seal)

ATTEST:

_____
J. Earl Daniels, City Manager/Clerk

Resolution # R-92-03-12-02

PERMISSION FOR CITY FORCES TO REMOVE THE COUNCIL CHAMBER LOCATED ON BROWN DRIVE: Upon a motion by Councilman Cross, seconded by Councilman Stronach, the Board voted unanimously to approve the removal of the Council Chambers located on Brown Drive upon the closing of the Installment Purchase Contract scheduled for March 16, 1992.

RESOLUTION - FEDERAL GRANT - NATIONAL SMALL BUSINESS TREE PLANTING PROGRAM: Upon a motion by Councilman Stronach, seconded by Councilman Cross, the Board voted unanimously to adopt the following resolution:

RESOLUTION
AUTHORIZING CITY MANAGER TO APPLY
FOR A FEDERAL GRANT THROUGH THE
NATIONAL SMALL BUSINESS TREE PLANTING PROGRAM

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

Section 1. That the City Manager, J. Earl Daniels, is hereby authorized, on behalf of the City of Marion, to sign the 1992 Local Project Application for funding by the National Small Business Tree Planting Program.

ADOPTED this the 12th day of March, 1992.

_____
A. Everette Clark, Mayor

ATTEST:

_____
J. Earl Daniels, City Manager/Clerk

Resolution # R-92-03-12-03

MARION-McDOWELL SESQUICENTENNIAL CELEBRATION - REQUEST FOR FUNDS: Councilman Little stated that Mr. Warren Hobbs had informed him that he had located a photograph of Marion made in 1894. He stated that it would cost approximately $325.00 to include the photograph in the McDowell County Heritage Book.

Upon a motion by Councilman Little, seconded by Councilman Tyler, Council voted unanimously to donate $325.00 to the Sesquicentennial Committee for the picture to be included in the McDowell County Heritage Book.

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

_____
A. Everette Clark, Mayor

ATTEST:

_____
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 17, 1992

The City Council for the City of Marion met in Regular Session on Tuesday night, March 17, 1992 at 7:00 P.M. in the City Council Chamber.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark; Councilmen John Cross, Steve Little and Joe Tyler. Councilman Angus Stronach arrived at 7:15 and Councilman Robert Ayers arrived at 7:40.

OTHERS PRESENT: J. Earl Daniels, City Manager; LuAnn Ellis, Secretary; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator, Water Filter Plant; Bill Gilsdorf, Chief of Police; Cindy Byas, News Reporter, W.D.L.F.; Cindy Woodard, News Reporter, The McDowell News; and Van McKinney, News Reporter, W.B.R.M.

GUESTS PRESENT: Mr. Gary McGill, McGill Associates; and Mr. Denny Martin, McGill Associates.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Tyler, those members of Council present voted unanimously to approve the minutes of the March 3 and March 12, 1992 meetings.

MR. ANDREW WEBB - REQUEST FOR REFUND - WATER BILL PENALTY: The City Manager presented a request from Mr. Andrew Webb to forgive the $5.00 late penalty on his water bill. The letter stated that the bill had been mailed on Friday, February 14 since the bill was due the 15th and was not posted until Tuesday, February 18. He stated that he had been informed that it was not received in the mail until the 18th because the 17th was a legal holiday (Martin Luther King's Birthday) and the post office was closed and no mail was delivered. Mr. Webb stated that he had mailed his bill on time and could not help the fact that the post office did not deliver it on time.

The City Manager stated that he had two additional bills that had been mailed on March 11 and March 13, but had not been received until March 17.

Councilman Little stated that the City policy stated that the bills would be due on the next business day if the 15th fell on the weekend or a legal holiday.

The City Manager stated that the bill could have been paid or dropped in the drop box.

Mayor Clark stated that persons should not depend on the mail getting their bills to them on time.

A short discussion followed.

Those members of Council present agreed that a policy was in place and it should be followed.

ARBOR DAY PROCLAMATION: Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted to adopt the following Proclamation:

PROCLAMATION

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed through the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, The City of Marion has been recognized as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW THEREFORE, I, A. Everette Clark, Mayor of the City of Marion, do hereby proclaim March 20, 1992 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 20TH DAY OF MARCH, 1992

A. Everette Clark

A. Everette Clark, Mayor

BOARD OF ADJUSTMENT - REQUEST FOR REFUND: The City Manager presented a memorandum from Mrs. Lovina Smith, requesting Board of Adjustment Fee for Mr. John Carson in the amount of $30.00 be refunded. The memorandum stated that a legal notice concerning the hearing had not been placed in the paper and the City had not incurred any expense and Mr. Carson had withdrawn his request for a hearing.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted unanimously to refund Mr. John Carson $30.00 as requested.

RESOLUTION - SAVINGS ACCOUNT - MARION POLICE DEPARTMENT: The City Manager stated that the Police Department received funds throughout the year from Controlled Substance Tax Distribution. These funds cannot be deposited into the General Fund and must be used for Police Department expenditures only. The reason for opening a savings account rather than a checking account was the amount of the funds was so small.

The City Manager stated that the Police Chief would have to request withdrawal of funds from the City Council and that the bookkeeper and assistant bookkeeper would be the only persons who could withdraw money from the account once the withdrawal had been approved.

Upon a motion by Councilman Little, seconded by Councilman Tyler, those members of Council present voted unanimously to adopt the Resolution opening the account. The Resolution can be found in the safe, filed under Legal Document Number 593.

RESOLUTION OF CONSIDERATION: Upon a motion by Councilman Little, seconded by Councilman Stronach, 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 17th day of March, 1992.

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.