

ATTEST:

J. Earl Daniels, City Manager/Clerk

R-94-10-04-02

A. Everette Clark, Mayor

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to adjourn on October 4, 1994 at 9:30 p.m.

ATTEST:

J. Earl Daniels, City Manager/Clerk

A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Regular Session on Tuesday evening, October 25, 1994, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Mike Edwards arrived for this meeting at 7:35 p.m.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Tom Milligan, Fire Chief; Van McKinney, News Reporter, WBRM; Teresa Sowers, News Reporter, WDLF Radio; Roger Watson, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Gary McGill, McGill Associates, Asheville, North Carolina 28814; Mr. Danny Bridges, McGill Associates, Asheville, North Carolina 28814.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to approve the minutes of the October 4, 1994 meeting.

GARY MCGILL - UPDATE - CITY PROJECTS: Mr. Gary McGill appeared before Council to discuss cracks in the top, walls and bottom of the concrete Clearwell at the Water Filter Plant. Mr. McGill informed Council that cracking of concrete generally occurs with curing of concrete or movement of the structure. He advised that some shrinkage occurs based on temperature and curing time. He told Council that the concrete Clearwell had not moved. Mr. McGill advised Council that following a detailed inspection it had been determined that the cracks are most probably caused by several problems. One problem being that some of the concrete delivered by Metromont of Morganton did not meet exact mixing specifications. He advised that tickets had been checked to determine the mix and that some mixes were outside allowed tolerances. A second, that the contractor, Hickory Construction Company, requested and received permission from the Engineer to make eight pours on the top of the clearwell instead of ten as specified. He informed Council that reducing the number of pours did increase the risk of cracking. He advised that this was approved at the Contractors risk. He said that the contractor did keep the concrete moist and covered and there seemed to be no other problems. Mr. McGill told Council that he had meet with, Sutton - Kennerly & Associates, the engineers responsible for the structural design, several times. He advised that the design for the top provided for one layer of steel tied re-bar running in both directions and eight inch thick concrete. The steel re-bar was tied in to the walls and the cracking on the top apparently caused the cracks in the walls. He advised that using hind-sight, it may have been better to have provided two layer of steel tied re-bar in twelve inch thick concrete. He advised that the design met minimum specifications. He concluded by advising that the cracks were probably cause by all three, the materials, the work and the design. He advised Council that additional studies could be made. He continued by advising that the parties involved had agreed to pay for repairs to the work at no cost to the City. He explained generally two methods of repair but advised that he was familiar with one of the methods and would not make any recommendation on the matter. He

advised that he would gather additional information on the method of installing a membrane on both the inside and outside of the tank. He told Council that they could refuse the project or accept the project after repairs. The Mayor advised that the matter should first be discussed with the City Attorney.

TOWN OF OLD FORT - DE-WATERED SLUDGE - HYDRO MANAGEMENT SYSTEM, INC.: The City Manager advised that there is a number of questions that must be addressed before considering any agreement on accepting de-watered sludge from the Town of Old Fort.

Council advised the City Manager to set up a meeting with the Utility Committee, the Town of Old Fort, McGill Associates and Hydro Management Services, Inc.

DOT-TIP 1996-2002 TIP RECOMMENDATIONS FOR McDOWELL COUNTY -CITY OF MARION: Upon a motion by Councilman Cross, seconded by Councilman Ayers Council voted unanimously to support the projects submitted by the McDowell County Chamber of Commerce for inclusion in the update of the Transportation Improvement Program, with one change as listed below in item two:

| Route | Project ID | Length | Description |
|-----------|------------|---------|----------------------------------|
| 1. NC 226 | R-2642 | 1.2 mi. | Multi-Laning From US 221 to I-40 |

REQUESTED: Increase length of project by approximately one mile south to entrance to new N.C. Correctional Facility.

| Route | Project ID | Length | Description |
|--------------------------|------------|---------|---|
| 2. US 221 (not assigned) | | 1/3 mi. | Multi-lane with curb/gutter from Georgia Avenue to the Marion By-Pass |

Objective: Improved traffic control and safety

NOTE: The City of Marion requests that the Multi-lane with curb/gutter on US 221 go from Georgia Avenue to the Marion By-Pass and not stop at Baldwin Avenue.

| Route | Project ID | Length | Description |
|-----------|------------|--------------------|---|
| 3. US 221 | R-2596 | 4.75 mi SR 1569 | Widen to Multi-lane (NC 226 to facility |

| Route | Project ID | Length | Description |
|---------|------------|---------|-------------------------|
| 4. I-40 | I-907 | 8.7 mi. | Pavement rehabilitation |

REQUESTED: Advance schedule of project

5. Bicycle Program

REQUEST: Construction of a bicycle trail Old US 70 from Old Fort to Ridgecrest, a distance of approximately five miles.

PERSONAL PROTECTIVE EQUIPMENT POLICY: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Policy:

**PERSONAL PROTECTIVE EQUIPMENT POLICY
FOR THE
CITY OF MARION
OCTOBER 1994**

I. GENERAL REQUIREMENTS

Protective equipment, including personal protective equipment (PPE) for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers are provided, used, and maintained in a sanitary and reliable condition.

The protective equipment is provided wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

II. EMPLOYEE OWNED EQUIPMENT

Where employees provide their own protective equipment, as authorized by their supervisor, the equipment must meet all applicable rules, procedures, standards,

codes, and regulations. Also, the proper maintenance and sanitation of the equipment is provided.

III. DESIGN

All personal protective equipment is of a safe design and construction for the work to be performed. Applicable standards, codes, and regulations are followed in the design and construction of protective equipment.

IV. EYE AND FACE PROTECTION

Protective eye and face equipment is provided and required where there is a reasonable probability of injury that can be prevented by such equipment. Eye and face protection used meet the requirements of ANSI Standard Z 87.1 - Eye and Face Protection. All employees are required to wear the prescribed eye and face protection to protect themselves from a hazardous environment.

Situations where suitable eye protection is required, but not limited to, machine operations involving flying objects, glass, liquids, injurious radiation, or a combination thereof.

Eye and face protection meets the following requirements:

- A. Provide adequate protection.
- B. Reasonably comfortable.
- C. Fit snugly and do not unduly interfere with movements.
- D. Durable.
- E. Capable of being disinfected.
- F. Easily cleanable.
- G. Kept clean and in good repair.
- H. Persons requiring corrective lenses shall wear:
 1. Spectacles whose protective lenses provide the correction.
 2. Goggles that can be properly worn over corrective spectacles.
 3. Goggles that incorporate corrective lenses.

Every eye and face protector is distinctly marked to facilitate identification of the manufacturer and ANSI Z 87.1.

When protector limitations and precautions are provided by the manufacturer, they are transmitted to the users and compliance enforced.

V. RESPIRATORY PROTECTION

Feasible engineering controls are the primary measures used to control employee exposure to harmful dusts, fogs, fumes, mists, gasses, smokes, sprays, or vapors. Such engineering controls include, but are not limited to enclosures and confinement, general and local ventilation, and substitution of less toxic materials.

When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators are used as specified by the following requirements.

Applicable and suitable respirators are provided when necessary to protect employee health.

A respiratory protection program has been established and is properly maintained to protect employees from atmospheric contamination and/or hazards. Key elements

of the program include:

- A. A written standard operating procedure governing the selection and use of respirators.
- B. Proper selection of respirators based on hazardous exposure.
- C. Instruction and training of users concerning proper respirator use and their limitations.
- D. Regular cleaning and disinfection of respirators and thorough cleaning and disinfection before use by another employee.
- E. Respirators are stored in a convenient, clean, and sanitary location.
- F. Routine inspection of respirators during cleaning and replacement of worn or deteriorated parts. Respirators for emergency use, such as self-contained breathing apparatus, are thoroughly inspected at least monthly and after each use. Records are maintained of these inspections.
- G. Work areas are routinely surveyed to review work area conditions and degree of employee exposure or stress.
- H. Regular inspections and evaluations are conducted to determine continued program effectiveness.
- I. A determination must be made and recorded that employees are physically able to wear respiratory protection and are able to perform the work and use the equipment prior to assigning them to wear respirators. The respirator users medical status is reviewed at least annually.
- J. Only approved respirators are worn which provide adequate respiratory protection against the particular hazard. Recognized authorization for respirator approval include ANSI, U.S. Department of Interior, Mine Safety and Health Administration, and the U.S. Department of Agriculture.

A. Air Quality

Where compressed air, compressed oxygen, liquid air, and liquid oxygen are used for respiration, it is of high purity. All oxygen used meets the requirements of the United States Pharmacopoeia for medical or breathing air.

Breathing air meets at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G7.1.

Compressed oxygen is not used in supplied-air respirators or in open circuit self-contained breathing apparatus that have previously used compressed air. Oxygen is prohibited from use with air line respirators.

Breathing air is supplied to respirators from cylinders or air compressors. Breathing air cylinders are tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation 49 CFR 178.

B. Air Compressors

Compressors for supplying breathing air are equipped with the necessary safety and standby devices. Breathing air-type compressors are used which avoid entry of contaminated air into the

systems and have suitable in-line air purifying sorbent beds and filters installed to further assure breathing air quality.

An air receiver of sufficient capacity is provided to enable respirator users to escape contaminated atmospheres in event of compressor failure. Also, alarms to indicate compressor failure and overheating are installed in the system.

If an oil-lubricated air compressor is used to supply breathing air, it will be provided with a high temperature or carbon monoxide alarm, or both. If only a high-temperature alarm is used, the air from the compressor is frequently tested for carbon monoxide to ensure it meets breathing air specifications described above.

Air line couplings are incompatible with outlets for other gas systems to prevent inadvertent servicing of air line respirators with nonrespirable gases or oxygen. All modifications, changes, and/or additions to the breathing air supply system including, but not limited to, the compressor, piping, couplings, etc. must be approved and inspected to ensure that the work was done properly, and that the changes, modifications and/or additions did not adversely affect the quality of the breathing air, such as the mistaken connection of a breathing air line to an argon, or other gas line.

All breathing air containers are marked in accordance with American National Standard Method of Marking Portable Compressed Gas Containers Z 48.1; Federal Specification BB-A-1034a, air compressed for breathing purposes; or Interim Federal Specification GG-B-0067b, breathing apparatus, self-contained.

C. Respirator Use

Standard procedures for emergency and routine respirator use have been developed which include all information and guidance necessary for proper selection, use, and care.

The correct respirator has been specified for each job by the respiratory program coordinator who is a qualified individual. The coordinator has received adequate instructions to ensure that the correct respirator is issued.

D. Dangerous Atmospheres

Training has been given to employees covering the safe use of respirators in dangerous atmospheres that might be encountered in normal operations or in emergencies. Employees have been informed of the proper procedures and the available respirators.

At least one additional person is required for respirator use in areas where the wearer, with respirator failure, could be overcome by a toxic or oxygen-deficient atmosphere. Communications, including visual, voice, or signal line, are maintained between the respirator user and the attendant. Plans are provided such that one individual will be unaffected by any likely incident and will have the proper rescue equipment necessary to assist the others in an emergency.

When self-contained breathing apparatus or hose masks with blowers are used in atmospheres immediately dangerous to life and health (IDLH), an attendant is required outside the work area with suitable rescue equipment.

Persons using air line respirators in IDLH atmospheres are equipped with a safety harness and safety lines for lifting or removing them from the hazardous atmosphere or other equivalent provisions for rescue used. The attendant(s)

and/or standby person shall have suitable self-contained breathing apparatus and be stationed at the nearest fresh air base for emergency rescue. All confined space entry and rescue comply with OSHA standard 1910.146.

E. Respiratory Protection Inspections

Frequent random respiratory protection inspections are conducted by the respiratory protection program coordinator to assure that respirators are properly selected, used, cleaned, and maintained.

F. Education and Training

Supervisors and employees are properly instructed by competent persons in the selection, use, and maintenance of respirators. During the training program respirator users are provided an opportunity to handle the respirator, have it fitted properly, test its face piece-to-face seal, wear it in normal air for a long familiarity period.

G. Fitting

Every respirator wearer receives fitting instructions including demonstration and practice in how the respirator should be worn, how to adjust it, and how to determine if it fits properly.

Respirators must not be worn when conditions prevent a good face seal including growth of beard, sideburns, skull cap projecting under the face piece, temple pieces on glasses, or absence of dentures.

Worker diligence in observing respirator fit factors is evaluated by periodic checks. Also, the respirator wearer has been instructed to check the respirator facepiece fit each time the respirator is donned as prescribed by the respirator manufacturer instructions.

H. Corrective Glasses and Respirator Use

There may be problems with respirator seals due to the temple pieces, therefore individuals wearing corrective lenses must obtain special authorization and approval to wear full face respirators. Special provisions will be made to ensure that employees can safely wear the respirator.

I. Maintenance and Care of Respirators

A respirator maintenance and care program is provided which covers the type of operations, working conditions, and hazards involved. The program includes:

1. Inspection for defects (including leak checks),
2. Cleaning and disinfecting,
3. Repair, and
4. Storage

J. Respirator Inspections

All respirators are routinely inspected before and after use by the user to ensure they meet their original effectiveness. Any defects, or possible defects, detected are reported to supervision so the necessary evaluations and maintenance can be performed prior to reuse.

Respirators not routinely used, but kept ready for emergency use, are inspected after each use and at least monthly to assure they are in satisfactory working condition. A record is maintained of these

inspections showing the date of inspection and findings.

Self-contained breathing apparatus are inspected monthly to ensure:

1. The breathing air cylinder is fully charged according to the manufacturers instructions.
2. The regulator and warning devices function properly.
3. Connections are tight.
4. Facepiece, headband, valve, connecting tubes, and canister condition.
5. Rubber or elastomer parts are pliable, and not deteriorated, and are kept pliable by massaging to prevent a set during storage.

K. Cleaning and Disinfection

Routinely used respirators are collected, cleaned, and disinfected as frequently as necessary to ensure proper wearer protection. Emergency use respirators are cleaned and disinfected after each use.

L. Replacement and Repairs

Respirator replacement and repairs are performed with parts designed for the respirator only by authorized persons and per manufacturers recommendations. Reducing or admission valves or regulators are returned to the manufacturer or to a trained technician for adjustment or repair. Trained technicians must be authorized by the manufacturer to perform repairs.

M. Storage

Respirators are stored so as to protect against dust, sunlight, heat, extreme cold, excessive moisture, or damaging chemicals. Routinely used respirators may be placed in plastic bags.

Storage of respirators in lockers or tool boxes are prohibited unless they are in carrying cases or cartons.

Respirators are packed or stored so that the facepiece and exhalation valve rest in a normal position and functions will not be impaired by elastomer setting in an abnormal position.

N. Identification of Gas Mask Canisters

Gas mask canisters are primarily identified by properly worded labels. Color codes are used as a secondary means of identification. Those persons purchasing, issuing, advising, or using gas masks are responsible to ensure the canisters purchased or used are properly labeled and color coded before being placed in service. All labels and color codes are properly maintained at all times the canisters are in use.

Bold letters are placed on each canister stating: "CANISTER FOR (name of atmospheric contaminant)" or "TYPE N GAS MASK CANISTER". In addition, essentially the following wording appears beneath the appropriate phrase on the canister label: "For respiratory protection in atmospheres containing not more than _____ percent by volume of (name of atmospheric contaminant)".

Canisters having a special high efficiency filter for protection against radionuclides and other highly toxic particulates are labeled with a statement of the type and degree of protection afforded by the filter. Such labels are affixed to the neck end of, or to the gray stripe around and near the top of the canister. The degree of

protection is marked as the percent of penetration of the canister by a 0.3 micro-diameter dioctyl phthalate (DOP) smoke at a flow rate of 85 liters per minute.

Each canister has a label warning that gas masks must be used only in atmospheres containing sufficient oxygen to support life (at least 16 percent by volume) since gas mask canisters are only designed to neutralize or remove contaminants from the air.

0. Color Codes

Each gas mask canister is painted a distinctive color or combination of colors as indicated by Table 1 attached. All colors used are clearly identifiable from one another. Appropriately colored pressure sensitive tape may be used for the stripes.

VI. OCCUPATIONAL HEAD PROTECTION

Helmets (safety hard hats) for the protection of employee heads from impact and penetration from falling and flying objects and from limited electric shock and burns are provided that meet the requirements and specifications per ANSI Standard Z 89.1.

VII. OCCUPATIONAL FOOT PROTECTION

Safety-toe footwear is required for employees routinely handling solid objects weighing 15 pounds or more which can fall on their toes. All such safety-toe footwear (safety shoes) meets the requirements and specifications of ANSI Standard Z 41.1.

VIII. ELECTRICAL PROTECTIVE DEVICES

Rubber protective equipment, such as rubber insulating gloves, rubber matting for use around electrical apparatus, rubber insulating blankets, rubber insulating hoods, and insulating sleeves, for protecting workers from live electrical current greater than 50 volts conforms to the ANSI Standards.

TABLE 1

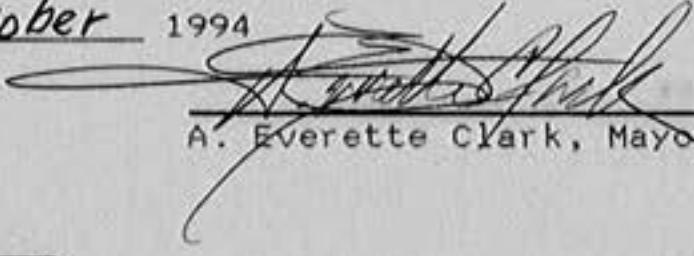
| <u>ATMOSPHERIC CONTAMINANTS</u> | <u>COLOR ASSIGNED</u> | |
|--|--|--|
| Hydrocyanic acid gas | White | |
| Chlorine gas | White with 1/2-inch yellow stripe completely around canister near the bottom. | |
| Organic vapors | Black | |
| Ammonia gas | Green | |
| Acid gasses and ammonia gas | Green with 1/2-inch white stripe completely around canister near the bottom. | |
| Carbon monoxide | Blue | |
| Acid gasses and organic vapors | Yellow | |
| Hydrocyanic acid gas and stripe completely around | Yellow with 1/2-inch blue chloropicrin vapor stripe completely around canister near the bottom. | |
| Acid gasses, organic vapors, | Brown and ammonia gases | |
| Radioactive materials, except | Purple (magenta) tritium and noble gases | |
| Particulates (dusts, fumes, in combination with any of the | Canister color for contaminant mists, fogs, etc.) above with 1/2-inch gray stripe completely around the canister near the top. | |
| All of the above atmospheric | Red with 1/2-inch gray stripe | |
| | contaminants | |

completely around the canister.

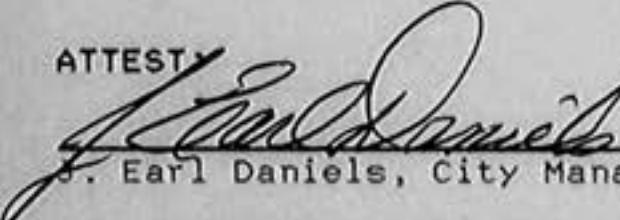
Gray shall not be assigned as the main color for a canister designed to remove acids or vapors.

Orange shall be used as a complete body, or stripe color to represent gases not included in this table. The user will need to refer to the canister label to determine the degree of protection the canister will afford.

ADOPTED this the 25 Day of October 1994


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

ABC COMMITTEE - APPOINT TWO MEMBERS: The City Manager advised that he had been approached by a Councilman interested in the Mayor appointing an ABC Committee.

Mayor Clark appointed Mayor Pro-Tem Robert Ayers and Councilman John Cross to serve on the ABC Committee. The Committee will work closely with the ABC Board and serve as liaison between the two boards.

THANKSGIVING HOLIDAY - CITY EMPLOYEES - VACATION TIME: The City Manager advised that each member of the Administrative Staff would like permission to take one day of vacation on the Friday following Thanksgiving Day.

A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to make the Friday following the Thanksgiving Holiday an additional Holiday for all City Employees.

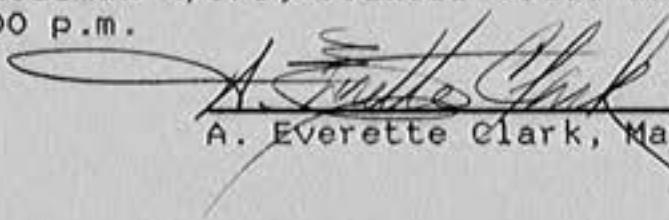
LONGEVITY PAY - DISCUSSION: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to give the City Employees Christmas longevity pay as follows, based on the number of years of continuous uninterrupted employment with the City:

More than 1, but less than 2 years service 1 days pay
 More than 2, but less than 3 years service 2 days pay
 More than 3, but less than 4 years service 3 days pay
 More than 4, but less than 5 years service 4 days pay
 More than 5, but less than 6 years service 5 days pay

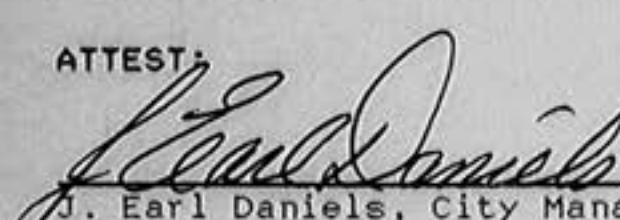
Individuals with five or more years of service will receive five days pay plus one dollar, times the number of months of service above five years.

In addition to the longevity checks, City Employees will each receive a turkey.

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adjourn on October 25, 1994 at 9:00 p.m.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, November 8, 1994, at 7:00 p.m., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John

Cross, Mike Edwards, Lloyd Cuthbertson and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator, Water Filter Plant; Roger Watson, News Reporter, The McDowell News.

GUESTS PRESENT: Mr. Gary McGill, McGill Associates, Asheville N.C. 28802; Mr. Danny Bridges, McGill Associates, Asheville, N.C. 28802; Mr. Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Mr. Deryl Tucker, 24 Clay Street, Marion, N.C. 28752; Mr. Nick Hayes, 518 Pinecrest, Marion, N.C. 28752; Mr. & Mrs. J. Matt Smith, 12 North Main Street, Marion, N.C. 28752; Mr. & Mrs. Charles Oglesby, 100 Richard Drive, Marion, N.C. 28752; Ms. Anne West, Marion, N.C. 28752; Mr. Woody Ayers, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the October 25, 1994 meeting.

RESERVE POLICE OFFICERS - OATHS OF OFFICE: Police Chief Tom Pruett, introduced Jeffrey Lynn Porter, Marty Norman, Donald Blevins and Fred Kohls, as four new Reserve Police Officers. Mayor Clark administered Oaths of Office to these Officers.

SEWER ODOR - CLAY STREET - OAK STREET AREA - MR. DERYL TUCKER: Mr. Deryl Tucker appeared before Council to discuss a sewer odor problem in the Clay Street - Oak Street Area. Mr. Tucker stated that this had been an on going problem and that at one time the City thought it had been corrected. He advised that the problem still exist.

The City's Engineer, Gary McGill, advised Council and Mr. Tucker that he is in the process of getting cost estimates for a certain chemical that could be time released into the Clinchfield pumping station to try and solve this odor problem.

Mr. McGill stated that he would try to have the cost of this chemical to the City Manager by next week.

NO PARKING SIGNS - NORTH MADISON STREET - MS. ANN WEST: Ms. West appeared before Council to request that the no parking signs that are posted on the west side of North Madison be taken down. Ms. West's elderly mother lives on North Madison and has persons taking care of her twenty-four hours a day. No parking on North Madison creates a problem for family coming to visit or to check on Ms. Shiflet.

A discussion followed.

This matter was referred to the Street Committee.

DRAINAGE PROBLEM COMPLAINT - MILLHEAR WAREHOUSE - MR. MATT SMITH: Mr. Matt Smith appeared before Council asking if there was anything the City could do to correct the problem with drainage near his property on West Henderson Street. Mr. Smith stated that during the last hard rains, this property had over a foot of water standing in the basement, due to storm drains not being able to carry the water run off.

The City Manager advised that this particular storm drain runs under the Southern Railway tracks.

A discussion followed.

It was decided to arrange a meeting with members of the Department of Transportation and a Representative of the Southern Railroad to try and find a solution to the problem.

GARY MCGILL - INFORMATION - CLEARWELL: Mr. McGill addressed the Council regarding the cracks in the new clearwell. He advised that he was investigating two repair methods. One method involved enlarging the cracks and pressure filling the cracks with a special type material which would allow contracting and expanding of the material with temperature changes. The second method was a type of membrane which could be installed both outside and inside the clearwell. The possibility of using both methods could also be considered. This would involve pressure filling and then placement of a membrane over the cracks. Mr. McGill said that he was not familiar with these repair methods and would not make such a recommendation until satisfied it would be the correct thing to do.

A short discussion followed.

Councilman Little made a motion that the City Manager and the City Attorney meet with the engineer for the purpose of determining and recommending to the City Council what action it should take to insure that the clearwell is effectively and promptly repaired, or promptly replaced in accordance with the Contract affecting the work. Mayor Clark asked Councilman Little if he would consider amending his motion to include the Mayor and the Utility Committee in the meeting. Councilman Little amended his motion to include the Mayor and Utility Committee in the meeting. This motion was seconded by Councilman Edwards with all Councilman voting in favor of the motion.

COUNCILMAN EDWARDS: Councilman Edwards excused himself from the meeting at approximately 8:15 p.m.

CORPENING CREEK WASTEWATER TREATMENT PLANT LIME PASTEURIZATION - CHANGE WORK ORDER:

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the following change work order:

1. During the initial layout and footing excavation for the New Building, Duke Powers main electrical underground cables were discovered in the same location where the building was to be constructed. The building location was shifted 10 feet southeast to miss the underground electrical service. In doing so, additional asphalt, stone paving, drain pipes, and excavation were involved with a total cost of \$2,628.00
2. The Contract Plans and Specifications required a separated power service and meter base to serve the new Pasteurization Facility. Duke Power highly recommended maintaining a single service and the new facility being fed out of the existing sewer plant motor control center. By eliminating the second or separate electrical service, a considerable amount of savings in the total electric power bill was possible. Therefore, an underground electrical service was installed to the new building to provide power out of the existing motor control center with a cost of \$19,118.00
3. The County Electrical Inspector requested an 800 AMP Disconnect Breaker to be installed at the existing Duke Power Transformer to allow the Pasteurization Facility's Power to be cut off without affecting the power to the remaining portions of the sewer plant with a cost of ... \$4,015.00
4. The sewer plant personnel requested the specified Model 843 Bobcat Front end Load to be upgraded to a Diesel Model 853 with several options added to this piece of equipment with a cost of \$5,312.00
5. Due to having to relocate the Pasteurization Building to eliminate the underground power service conflict, the security fence had to be taken down and relocated, plus approximately 50 L.F. of new fence provided with a cost of \$1,685.00

Total cost Associate with the described changes and additions \$32,758.00

Original contract Amount \$663,000.00

Total Revised Contract Amount \$695,758.00

The contractor requested that 73 days be added to the contract time. The Engineer approved 52 days to be added to the Contract time. It was agreed by Council to withhold \$2,100.00 from the final payment, as authorized in the contract agreement, representing a penalty of \$100 per day for time over contract.

APPOINT ONE MEMBER - FIREMEN'S RELIEF FUND BOARD OF TRUSTEES:

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted unanimously to re-appoint Councilman Little to the Firemen's Relief Fund Board of Trustees for a term of two years, said term to expire on December 31, 1996.

MARION FIRE DEPARTMENT - EXPRESSION OF APPRECIATION - REQUEST: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to accept the recommendation of the Fire Chief Tom Milligan that a gift of \$1,200.00 be given to Donald Anderson, Bruce Edwards and Jimmy Morris, and a \$200.00 be given to Jim Neal.

RESOLUTION - CLOSING A UNOPENED PORTION OF NEW STREET - NEW MANNA BAPTIST CHURCH: Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, those members of Council present voted unanimously to adopt the following Resolution:

**RESOLUTION OF MARION CITY COUNCIL
RELATIVE TO CLOSING A PORTION OF NEW STREET**

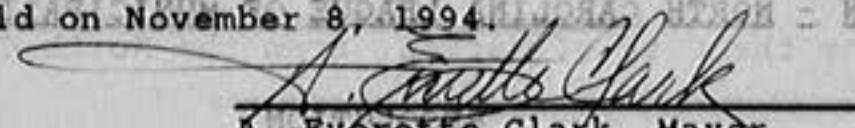
BE IT RESOLVED THAT, Pursuant to the provisions of North Carolina General Statutes 160A-299, the City Council of Marion, North Carolina, hereby declares its intent to permanently close that unopened portion of New Street as shown, for identification and location purposes only, on a survey of property having belonged to David Thomas Spencer which lies East of North Madison Avenue and is now owned by Trustees of New Manna Baptist Church as recorded in Deed Book 461, Pages 5-8 in the Office of the McDowell County Register of Deeds

A public hearing is called to be held in the City Council Chamber in the City Hall, Marion, North Carolina at 7:00 O'Clock p.m. on January 3, 1995, at which hearing any person may be heard on the question of determining whether or not the closing of said portion of said street would be detrimental of the public interest or the property rights of any individual.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be published once a week for four (4) successive weeks in the McDowell News, Marion, North Carolina, prior to the date of said public hearing, and that a copy of the same shall be sent by registered or certified mail to the Trustees of New Manna Baptist Church, Post Office Box 1286, Marion, North Carolina 28752, who are the owners of property adjoining said portion of said street as shown on the County tax records.

BE IT FURTHER RESOLVED that a Notice of the closing and public hearing shall be prominently posted in at least two (2) places along that portion of said street which is to be closed.

ADOPTED at a regular meeting held on November 8, 1994.


A. Everette Clark, Mayor

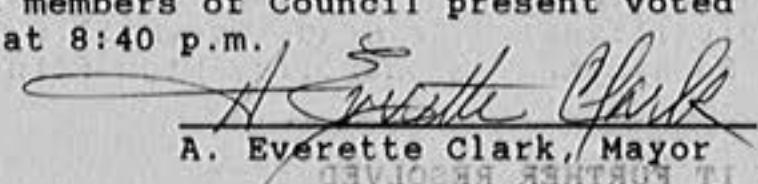
ATTEST:


J. Earl Daniels, City Manager/Clerk

THE McDOWELL NEWS - PURCHASE OF CITY OF MARION ADD: The City Manager advised Council that Mr. Keith Austin with the McDowell News has requested the City of Marion to purchase an add to be in the special commemorative edition that will center around the 1894 fire that destroyed Downtown Marion and the rebuilding and progress that has taken place since.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to direct the City Manager to purchase a one half page add at a cost of \$322.50.

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman , seconded by Councilman , those members of Council present voted unanimously to adjourn on November 8, 1994 at 8:40 p.m.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, November 22, 1994, at 7:00 p.m., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Mike Edwards, Lloyd Cuthbertson and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Freddie Killough, Downtown Business Association Director; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Teresa Sowers, News Reporter, WDLF Radio.

GUESTS PRESENT: Mr. and Mrs. Ted Lowery, 124 Crawford Street, Marion, North Carolina 28752; Mr. Garland Franklin, 234 Spring Street, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the October 25, 1994 meeting.

GARBAGE COMPLAINT - TED LOWERY: Mr. Ted Lowery appeared before Council to discuss a Sanitation Employee picking up a lawn chair on his property. Mr. Lowery stated that he was attempting to place a lawn chair in his basement when he heard his phone ringing. He placed the chair on top of his garbage can to answer his phone. When he came back, a City Worker had been there to pick up the garbage and took the chair as well.

Mr. Lowery stated that he was disturbed by the fact that the City of Marion had made such a big issue of picking up yard and household goods at the curb and only garbage from the cans.

The City Manager advised that he had spoken to the City Employee and that the chair was picked up and hauled to the County Landfill. He told Council that the employee thought the chair had been placed there for pick up.

Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to reimburse Mr. Lowery for the chair in the amount of \$15.95 plus tax.

DOWNTOWN BUSINESS ASSOCIATION - FREDDIE KILLOUGH: Ms. Killough asked to be allowed to say thank you to Mayor Clark, City Council and the Marion Police Department for their participation in the Christmas Parade.

RESOLUTION - NORTH CAROLINA LEAGUE OF MUNICIPALITIES: The following resolution was received by the City of Marion, from the North Carolina League of Municipalities:

**RESOLUTION
OF THE
NORTH CAROLINA LEAGUE OF MUNICIPALITIES
HOST MUNICIPALITIES FOR REGIONAL MEETINGS**

WHEREAS, during April, 1994 the North Carolina League of Municipalities held regional meetings across the state to discuss federal and state legislative issues affecting municipalities; and

WHEREAS, officials of the host municipalities provided great assistance concerning the preparation and conduct of these meetings;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities in Annual Convention assembled this 18th day of October, 1994, that the delegates do hereby express their sincere appreciation and gratitude to the mayors, members of the governing boards and the employees of the following cities and towns for their hospitality, assistance and cooperation, and for the numerous courtesies rendered in hosting the regional meetings on behalf of the North Carolina League of Municipalities: Nags Head, Greenville, Jacksonville, Southport, Clinton, Oxford, Rockingham, Kannapolis, High Point, Wilkesboro, Bryson City/Cherokee, and Marion.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to those cities and towns.

Adopted by the membership of the North Carolina League of Municipalities in annual meeting assembled this 18th day of October, 1994, in the City of Asheville, North Carolina.

David Reynolds Nancy Jenkins
ATTEST: Executive Director President

October 18, 1994
Date

AMERICAN MOTION TO STATE
COUNCIL TO FORWARD
CITY OF MARION

MARION FABRICS - REQUEST FOR REIMBURSEMENT FOR REPAIRS: The City Manager advised Council that he had received a letter from Mr John McEntire of Marion Fabrics requesting that the City of Marion pay for damages incurred on their property.

Mr. McEntire stated that sand and grit in the incoming city water to their dye house caused damage to equipment in the amount of \$4,705.00.

This matter was referred to the Utility Committee.

REQUEST - WAIVE LATE FEE - ROBERT PALMER: The City Manager advised that Mr. Robert Palmer stopped by his office and ask that Council waive the \$5.00 late penalty on his water bill for the month of November. Mr. Palmer's bill was returned to the City Hall marked RETURN TO SENDER; NO FORWARD ORDER ON FILE; UNABLE TO FORWARD. RETURN TO SENDER.

Mr. Palmer's P. O. Box number was printed on the bill correctly.

RECORDED IN JOURNAL

Upon a Motion by Councilman Cross, seconded by Councilman Cuthbertson, Council voted unanimously to waive the dollar late penalty.

INDUSTRIAL PARK - WATER SUPPLY GRANT - WASTEWATER GRANT ACCEPTANCE: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to accept the grant as offered by the State of North Carolina Division of Environment, Health and Natural Resources in the amount of \$108,000.00 and to authorize the Mayor and City Manager to execute any documents necessary for the grant.

CLEARWELL - SECOND OPINION: The City Manager advised that Gary McGill, of McGill Associates is suppose to have a recommendation for City Council by December 25, 1994, in reference to repairing or replacing the Clearwell.

The City Manager also advised that he feels it is in the best interest of the City of Marion to get a second opinion from another Engineer not involved with the project. The City Manager stated that he had the upmost respect for Gary McGill, but feels that if we have two separate, independent opinions, it would put City Council in a better position to make a decision.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to authorize the City Manager and the Utility Committee to investigate the availability of a Engineer and the cost, and to appoint an Engineer they feel is appropriate.

FOOTHILLS MENTAL HEALTH: The City Manager advised that he had received a letter from the McDowell County Foothills Mental Health stating that they would be applying for funding for a new facility to be constructed on property provided by the County near the McDowell Hospital. The Foothills Mental Health is requesting a letter of support from the City of Marion.

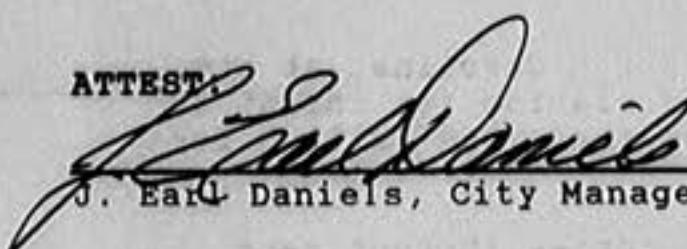
Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to send a letter of support.

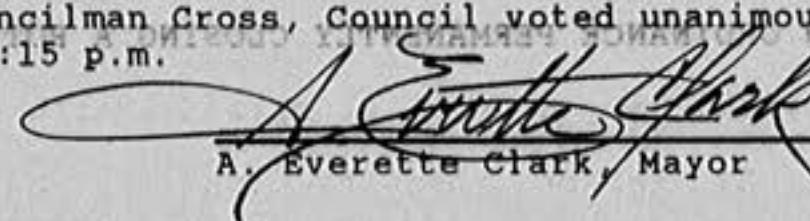
INDEPENDENT AUDITORS' REPORT: The City Manager handed out copies of the June 30, 1994 Independent Auditors' Report, and ask for authorization to make final payment to Johnson, Price and Sprinkle, P.A.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to authorize the City Manager to pay for the audit.

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to adjourn on November 22, 1994 at 8:15 p.m.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

RECORDED IN JOURNAL

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, January 3, 1995, at 7:00 p.m., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Mike Edwards and Lloyd Cuthbertson.

Councilman Steve Little arrived for this meeting at 7:15 p.m.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF Radio.

QUESTS PRESENT: The Honorable Robert Hunter, North Carolina House of Representatives, P. O. Box 1330, Marion, North Carolina 28752; John McGrath,

Habitat for Humanity, P.O. Box 75 Marion, North Carolina 28752; Bruce Ward, Route 5, Box 717 Marion, North Carolina 28752; Jim Wilson, 445 State Street, Marion, North Carolina 28752; Nick Hayes, 518 Pinecrest Drive, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve the minutes of the November 22, 1994 meeting.

PUBLIC HEARINGS:

~~ELIMITE DIA THARO RETAWERDAW - THARO XISIUS RETAW - XISIUS JAISTRONI~~
REQUEST TO CLOSE A PORTION OF NEW STREET - NEW MANNA BAPTIST CHURCH: The City Manager opened the Public Hearing on a request from New Manna Baptist Church to close that unopened portion of New Street, generally described as located from the end of the opened improved portion of New Street east of Madison Street to the end of the unopened street which ends on property owned by New Manna Baptist Church.

The City Manager informed persons attending the meeting that the unopened portion of the street ends on property owned by New Manna Baptist Church.

The Council was advised that there were plans to construct a Private Christian School on the property.

Mr. Jim Wilson, a resident of New Street ask if the Trustees of New Manna Baptist Church plan on using New Street for access to the property. He is concerned about the amount of traffic which will be created by school buses and private vehicles going to and from the school.

The City Manager advised that since the opened portion of the street ended at the church's property line that they could use the street for access but the church would have to make all improvements on church property at their expense.

A discussion followed.

~~HTIASH JATHEN BILINTOG~~
 Councilman Edwards ask if Mr. Wilson was against the closing of New Street.

Mr. Wilson stated that he was not against closing the unopened portion of the street as requested but was concerned about increasing traffic flow on the street.

He informed the Council that he questioned whether the portion of New Street east of Madison Street was a public street.

The City Manager stated that the City did not have a deed for the street but that it has been on City Maps since the late 1920's, was on the County Tax Map and the City Powell Bill map as being a city street.

The City Manager closed the Public Hearing.

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

AN ORDINANCE PERMANENTLY CLOSING A PORTION OF NEW STREET

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

Section I. THAT, WHEREAS the City Council of Marion, North Carolina, at its regular meeting on November 8, 1994, adopted a Resolution declaring its intent to permanently close a portion of New Street, hereinafter described, and calling for a public hearing on the question; and

WHEREAS, The Resolution was published and posted, and copies thereof were sent by registered mail to all owners of property adjoining that portion of the street which was described in the Resolution, as required by the provisions of North Carolina General Statutes, Section 160A-299; and

WHEREAS, a public hearing was duly held in the Council Chamber on January 3, 1995, at which no owner of property adjoining the portion of New Street intended to be closed appeared to express opposition to the closing; and

WHEREAS, After the hearing, it appears to the satisfaction of the City Council that closing the described portion of New Street is not contrary or detrimental to the public interest or the property rights of any individual, and that no individual owning property in the vicinity thereof would thereby be deprived of a reasonable means of ingress and egress to and from the property of such owner.

Section II. IT IS, THEREFORE, ORDAINED AND ORDERED that the portion of New Street as shown, for identification and location purposes only, on a survey of property having belonged to David Thomas Spencer which lies East of North Madison Avenue and is now owned by Trustees of New Manna Baptist Church as recorded in Deed Book 461, Pages 5-8 in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed;

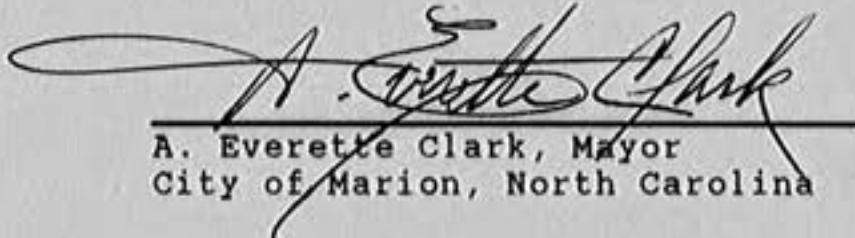
PROVIDED, HOWEVER, that the City of Marion reserves the permanent right and

easement to maintain, repair and replace all water and sewer and utility lines of the City of Marion which are now located upon or under, or which pass through or over, the portion of New Street described herein.

Section III. IT IS FURTHER ORDERED that a certified copy of this Ordinance and Order shall be filed in the Office of the Register of Deeds for McDowell County, North Carolina, as required by the provisions of North Carolina General Statutes Section 160A-299.

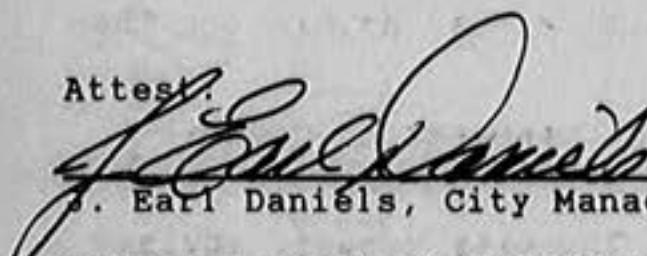
Section IV. This Ordinance and Order shall be in full force and effect from and after the date of its adoption.

Adopted January 3, 1995.


A. Everette Clark, Mayor

City of Marion, North Carolina

Attest:


J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-01-03-1

APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO REHABILITATE OWNER-OCCUPIED HOMES OF LOW-INCOME ELDERLY CITIZENS: The City Manager opened the Public Hearing. He advised that the purpose of the public hearing is to allow residents an opportunity to express their views concerning the City of Marion applying for a Community Development Block Grant under the Community Revitalization Category.

The City Manager advised that although no decisions have been made, the City of Marion is considering submitting an application for funds to rehabilitate owner occupied homes of low-income elderly citizens.

There was no one present at the meeting regarding this matter.

The public hearing was closed by the City Manager.

BALDWIN AVENUE - CONSIDER REPLACING EXISTING SIDEWALKS AT CITY EXPENSE AND INSTALLING CURB AND GUTTER WITH DOT REIMBURSEMENT:

The City Manager provided Council with a copy of a letter from Gordon S. Myers, Member, Board of Transportation to the Honorable Robert C. Hunter concerning a petition for curb, gutter, and sidewalk improvements to SR 1703 (Baldwin Avenue).

Representative Hunter was present and advised that there would be a meeting on Wednesday, January 4, 1995 and this project would be discussed.

The cost estimate made by District Engineer Tony Moore to install and/or remove and replace bad sections of curb and gutter and sidewalk on Baldwin Avenue from Rutherfordton Road (US 221) north to the City Limits is \$70,000.

The letter stated that the estimate for the sidewalk work is \$19,680. The letter suggested that the City pay for the sidewalk work and undertake the work for curb and gutter installation and/or removal and replacement on a reimbursable basis.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously for the City to undertake the project and authorize the Mayor and City Manager to sign any documents, agreements or contracts regarding same.

REQUEST FOR REIMBURSEMENT - DAWN RABON: The City Manager advised that he had received a letter from Ms. Dawn Rabon requesting that the City of Marion reimburse her the sum of \$356.50, which is the amount paid to a plumber who was called to her residence to unblock their sewer line. It was discovered that blockage was in the City's main line and not on the property. The plumber proceeded to unblock the line.

The City Manager stated that the Marion Police Department should have been contacted and they would have notified the duty operator concerning the problem. He advised that Ms. Rabon did not know the proper procedures to follow and since the problem occurred on Thanksgiving Day no one answered the phone at the Public Works Department. Ms. Rabon had to get a plumber from out of Town to do the work. The plumber unblocked a city main sewer line.

The City Manager advised that the Utility Committee recommended that she be reimbursed.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to reimburse Ms. Rabon in the amount of \$356.50.

HABITAT FOR HUMANITY - REQUEST FOR THE CITY TO FILE FOR GRANT FUNDS TO PROVIDE FOR RELOCATION OF UTILITY LINES: Mr. John McGrath appeared before Council requesting that the City of Marion serve as an applicant to file for grant funds to provide

for the relocation of water and sewer lines on property located in the Clinchfield area.

Relocation of the water and sewer lines would allow for the construction of seven single family residences over a period of several years.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve this request.

REQUEST TO WAIVE LATE FEE PENALTY - SUE LYNN HALLMARK: The City Manager advised that Mr. Woody Loftin of Loftin and Associates, Inc., owner of Sue Lynn Hallmark faxed a letter requesting City Council waive the five dollar late fee on his water account. He stated that he mailed his check and when he received a second notice the City of Marion had not received it, he stopped payment on the check and wrote the City of Marion a second check.

A discussion followed. Council agreed that the City cannot be responsible for the delivery of mail.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to deny this request.

MACA - REQUEST TO BLOCK OFF A PORTION OF McDOWELL STREET: The City Manager advised Council that he had received a letter from Sandra Epperson on behalf of the "S.T.A.Y. After 3" After School Program of the McDowell Arts and Crafts Association and the McDowell County Schools, requesting that they be allowed to barricade McDowell Street from State Street to Sam Hall's back driveway each school day from 4 p.m. until 5:30 p.m. weather permitting for the purpose of allowing students to play street hockey.

A discussion followed. Council agreed that a public street is not an appropriate place for this type activity and suggested that the school tennis courts, track or parking lot would be more appropriate.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to deny this request.

BIDS - REQUEST TO PURCHASE TWO CUSHMAN SCOOTERS: The City Manager advised that he had received a request from Sharon Hogan, Purchasing Agent to purchase two Cushman Model 457 Refuse Collection Vehicles.

The bids received on December 28, 1994 for 2 Refuse Collection Vehicles are as follows:

Carolina Industrial Equipment, Inc. -
All specifications for vehicle were met.

TOTAL PRICE - \$24,914.00

Eastern Turf Equipment, Inc. -
All specifications for vehicle were met.

TOTAL PRICE - \$25,768.00

Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, Council voted unanimously to accept the low bid of \$24,914.00 from Carolina Industrial Equipment for the purchase of two Cushman Model 457 Refuse Collection Vehicles.

FAMILY SERVICES - REQUEST FOR ADDITIONAL FUNDS: The City Manager advised that the City of Marion had been asked to contribute more funds to Family Services.

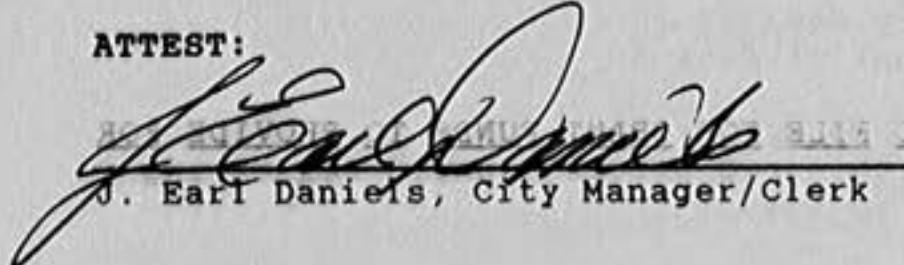
No one from Family Services was present for this meeting.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, Council voted unanimously to table this matter.

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn on January 3, 1995 at 8:30 p.m.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

JANUARY 17, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, January 17, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Mike Edwards arrived for the meeting at 7:10 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Lovina Smith, Zoning Administrator; Tom Pruett, Chief of Police; Penn Dameron, City Attorney; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF Radio Station.

GUEST PRESENT: Greta Lorraine, 42 Lincoln Avenue, Marion, North Carolina 28752; Ruth M. Campbell, Family Services of McDowell County, P. O. Box 1572, Marion, North Carolina 28752; Dean Wall, Jarrett & White Insurance Agency, Inc., 117 South Main Street, Marion, North Carolina 28752; Penn Dameron, Dameron & Burgin, Attorneys at Law, 14 West Court Street, Marion, North Carolina 28752; Nick Hayes, 518 Pinecrest Drive, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of the January 3, 1995 meeting.

REQUEST FOR ROADWAY EASEMENT - MARIE P. ROBINSON: City Attorney Penn Dameron appeared before Council to present a request that the City grant a 30 foot roadway easement to Marie P. Robinson across property owned by the City of Marion (Filter Plant Property) to provide access from State Road #1214 to her property.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the Council voted unanimously to grant Marie P. Robinson a 30 foot roadway easement reserving the right for the City to install, replace and/or repair utility lines as necessary. The Mayor and City Clerk were authorized to execute the easement when prepared.

CROSS MILLS, INC. - BANKRUPTCY - PROPOSED TAX ADJUSTMENT: City Attorney Penn Dameron appeared before Council to report that a motion had been filed with the United States Bankruptcy Court by Cross Mills, Inc. seeking authorization to sell approximately 14.5 acres of property located in the City of Marion and to transfer to sales proceeds the liens of the City of Marion and McDowell County for ad valorem taxes, interest and penalties. He explained that the City has until 4:30 o'clock, Friday, January 20, 1995, to file written objections to the motion as filed.

Councilman Ayers noted that the value of the property is now considerably lower than when the plant was in operation.

Mayor Clark stated that he felt the City was entitled to receive the full amount of ad valorem taxes owed, not an amount based on the value that has been lowered each year since the plant initiated the bankruptcy proceedings.

Upon a motion by Councilman Little, seconded by Councilman Ayers, the Council voted unanimously to approve of the sale of property belonging to Cross Mills, Inc. The City Manager was instructed to investigate options available to the City for seeking full payment of the ad valorem taxes owed.

PRESENTATION - CITY MANAGER OF THE YEAR: J. Earl Daniels was honored as City Manager of the Year by Region C Criminal Justice Advisory Committee. The presentation was made by Chief of Police Tom Pruett.

Chief Pruett praised Mr. Daniels' dedication and professionalism in the execution of his job as City Manager.

FAMILY SERVICES - REQUEST FOR CONTRIBUTION: Ms. Ruth Campbell, Director, Family Services of McDowell County, appeared before the Council to request additional financial assistance for the fiscal year ending June 30, 1995. She estimated a shortage of more than \$9,000.00 due to cut backs.

Councilman Little stated that he felt the Council should be wise and frugal with the tax money of the City of Marion. He questioned if the City received any direct benefits from the center as opposed to the entire county.

Councilman Cross pointed out that City residents contributed twice, once as a City resident and second, as a county resident.

Councilman Edwards pointed out that he felt the City Council was an inappropriate body to make contributions with money of the City residents.

Mayor Clark stated that he felt that worthwhile organizations should be funded on a County wide contribution which would include the residents of the City of Marion.

Ms. Campbell concluded by stating that contributions would gladly be accepted from any individual, business or organizations. Contribution can be mailed to Family Services of McDowell County, P. O. Box 1572, Marion, North Carolina 28752.

PRE-PAID LEGAL SERVICES: Mr. Dean Wall, of Jarrett & White Insurance Agency, Inc., appeared before the Council concerning the availability of a pre-paid legal service plan for City employees.

Mr. Wall stated that he was not asking for endorsement by the City Council, only permission to present the plan to the employees and approval of payroll deductions for any employee wishing to purchase the service for \$14.95 per month.

The City Manager will ask the Personnel Director to check with other municipalities where the plan is available and report her findings at the next regular meeting of the City Council.

APPOINTMENT TO MARION ZONING BOARD: The City Manager reported that the term of Robin Hood on the Marion Zoning Board would expire on January 31, 1995. He presented the recommendations of Lovina Smith, Zoning Administrator, that Mr. Fred Moody be appointed to a regular position on the Board. Mr. Moody now serves as an alternate.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, the Council voted unanimously to appoint Mr. Moody to the Marion Zoning Board as a regular member. Mr. Moody's term of office will expire on January 31, 1998.

The appointment of a new alternate will be referred to the Nominating Committee for review and recommendations at the next regular meeting of the City Council.

RESOLUTION - CONTRIBUTIONS: Upon a motion by Councilman Ayers, seconded by Councilman Edwards, the Council voted unanimously to adopt the following Resolution:

RESOLUTION

REGARDING CONTRIBUTIONS

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

WHEREAS, the City receives requests for contributions from some governmental agencies and other non profit organizations; and

WHEREAS, the City Council is often asked to provide contributions from City Taxpayers in addition to contributions provided as County Taxpayers; and

WHEREAS, the City is responsible for providing services only to city residents.

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

Section 1. That it shall be the policy of the City of Marion to provide contributions only when City residents receive services or benefits over and above services and/or benefits received by County Taxpayers residing outside the City Limits.

Section 2. That any agency or organization requesting funds must provide an application, in writing, specifically showing the added benefits to City residents over and above the benefits to County residents residing outside the City Limits.

Adopted this the 17th day of January, 1995.

A. Everett Clark
A. Everett Clark, Mayor

ATTEST:

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

Resolution #: R-95-01-17-1

CURB AND GUTTER AGREEMENT - BALDWIN AVENUE: Upon a motion by Councilman Ayers, seconded by Councilman Edwards, the Council unanimously approved the following Agreement:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

DEPARTMENT OF TRANSPORTATION

AGREEMENT

AND
CITY OF MARION

FOR REIMBURSABLE WORK

THIS AGREEMENT, made and entered into this the _____ day of _____, 1995 by and between the Department of Transportation and the City of Marion hereinafter referred to as the City:

W I N E S E I M

THAT WHEREAS, the Department of Transportation has requested the City to perform work hereinafter described which the City has agreed to do in consideration of the actual cost incurred.

1. The City shall perform the following work:

Install curb and gutter improvements on SR 1703, Baldwin Avenue, from US 221-226 Business to SR 1717 at various locations, McDowell County.

2. The City shall be responsible for designing the project, acquiring the necessary right of ways, relocating the necessary utilities, and administering construction at no cost to the Department. The City shall obtain approval of the construction plans from the District Engineer prior to soliciting bids for the project. The Division Engineer shall approve the bids prior to award of the contract. The City also agrees to include the District Engineer in the final approval of the construction upon completion of the project.

3. Upon satisfactory completion of the project in accordance with the plans and specifications as approved by the District Engineer, the Department of Transportation shall reimburse the City of Marion for the actual construction costs not to exceed \$50,320 upon receipt of an invoice showing the cost incurred.

4. This agreement is entered into and executed by the State Highway Administrator on behalf of the Department of Transportation in accordance with Sections 2E.0501 and 2E.0502 of Title 19A of the North Carolina Administrative Code.

City of Marion

Department of Transportation

BY

(Seal)

State Highway Administrator

Approved As To Form and Execution
MICHAEL F. EASLEY, ATTORNEY GENERAL

By

Attorney General

WETLAND ALERT: The City Manager presented a copy of rules and regulations concerning the wetlands as proposed by the North Carolina Environmental Management Commission.

Upon a motion by Councilman Ayers, seconded by Councilman Little, the Council voted unanimously to go on record as being opposed to the proposed rules as presented.

RESOLUTION - HABITAT FOR HUMANITY: Upon a motion by Councilman Little, seconded by Councilman Cross, the Council voted unanimously to adopt the following Resolution:

RESOLUTION

WHEREAS, the McDowell County Habitat for Humanity Program has made an offer to purchase certain property located on Main Street in Clinchfield, contingent upon Grant Funds being made available for relocation of water and sewer lines, with the intention of constructing seven homes over a period of time; and

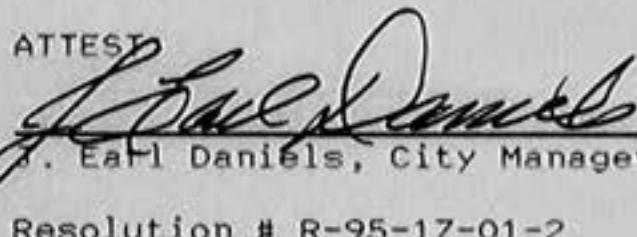
WHEREAS, in order to facilitate development of this property, the Habitat Program has requested that the City relocate water and sewer lines from the property into the street right-of-way; and

WHEREAS, the N. C. Department of Commerce, Division of Community Assistance, has available Community Development Block Grant (CDBG) funds in a housing development category, and the proposed line relocation would be an activity eligible for grant funds.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Manager be authorized to make application to the Division of Community Assistance for CDBG Housing Development funds to undertake the requested water and sewer line relocation, and to execute such documents as may be required to submit such application.

Adopted this the 17th of January, 1995.

ATTEST:



J. Earl Daniels, City Manager/Clerk



A. Everette Clark, Mayor

Resolution # R-95-17-01-2

COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION PROPOSALS: The City Manager presented two proposals for the preparation of Community Development Block Grant applications. He stated that the proposals had been reviewed and recommended the proposal of Isothermal Planning and Development Commission be accepted based on their past work experience with the City of Marion.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, the Council voted unanimously to accept the proposal of Isothermal Planning and Development Commission for the preparation of Community Development Block Grant applications.

GTE OFFICE HOURS: There was a discussion concerning the reduction of office hours at the local GTE Business Office located on North Garden Street.

A motion was made by Councilman Little, seconded by Councilman Cuthbertson, to direct the City Manager to write a letter to GTE advising the concern of the City Council of the limited business hours and ask that normal business hour be considered. The vote was as follows:

Ayes - Councilmen Cuthbertson, Little, Ayers and Edwards; Noes - Councilman Cross.

CITY COUNCIL RETREAT: Councilman Edwards expressed his opinion concerning the Council's recent retreat to Cataloochee. He stated that he felt the Board should hold the planning session; however, he thought they should meet in Marion rather than traveling two hours away.

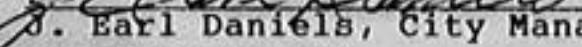
Councilman Little stated that he felt the time was well spent. The Council is able to focus totally on the City with out interruption.

Both Mayor Clark and Councilman Cuthbertson stated they had heard only good comments about the planning retreat.

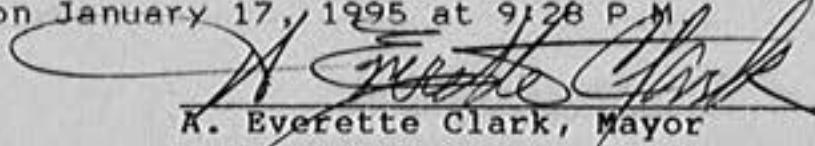
The local planning of the next retreat will be discussed prior to making plans for the 1996 planning session.

ADJOURNMENT: Upon a motion by Councilman Ayers, seconded by Councilman Cross, the Council voted unanimously to adjourn on January 17, 1995 at 9:28 P.M.

ATTEST:



J. Earl Daniels, City Manager/Clerk



A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

FEBRUARY 7, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, February 7, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, Mike Edwards and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Lovina Smith, Zoning Administrator; Glen Sherlin, Public Works Director; Freddie Killough, Downtown Business Association Director; Teresa Sowers, News Reporter, Deliteful Radio; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Jim Edwards, IPDC, Rutherfordton, North Carolina; Travis Ringo, IPDC, Rutherfordton, N. C.; Garland Brooks, 234 Spring Street, Marion, N. C. 28752, Nick Hayes, 218 Pinecrest Drive, Marion, N.C. 28752.

REQUEST FOR REIMBURSEMENT - SCOTT CALLAHAN: The City Manager advised that Mr. Scott Callahan, owner of the Little Kitchen Diner, is requesting two hundred dollars reimbursement, due to City Workers not notifying him that water at his place of business had been cut off due to a water leak.

He stated that City Workers were notified of a leak on his property and cut the water off. He opened his business on Monday morning and assumed, when he had no water, that his pipes had frozen. He then hired a plumber. The plumber spent the better part of the day trying to thaw the pipes, then realized the water had been cut off.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to reimburse Mr. Callahan two hundred dollars.

PUBLIC HEARING:

COMMUNITY DEVELOPMENT BLOCK GRANT - APPLICATION FOR GRANT: The City Manager opened the Public Hearing. He advised that the purpose for the Public Hearing was to allow Citizens to have input into the City applying for a Community Development Block Grant under the Community Revitalization Category.

The City will request \$492,000. to rehabilitate twenty dwellings throughout the City. If the request is granted, Isothermal Planning and Development Commission will contribute \$15,000. to the project.

There were no citizens present regarding this issue.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, Council voted to authorize Isothermal Planning and Development Commission to proceed with this application.

CDBG - SET HEARING DATE - REQUEST FOR HABITAT: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to set the hearing date for February 21, 1995.

The grant, if approved, will provide funds to relocate water and sewer lines to provide for construction of seven homes by Habitat for Humanity.

PRE-PAID LEGAL SERVICES: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously not to pay roll deduct the pre-paid legal services for City Employees as requested by Mr. Dean Wall at the last City Council Meeting.

PLANNING BOARD - APPOINT ALTERNATE MEMBER - NOMINATING COMMITTEE: The City Manager presented a memo from Ms. Lovina Smith, Zoning Administrator, advising that the Marion Zoning Board is short one alternate member.

The nominating Committee advised that they would like to recommend Mr. Craig Orange for this position.

Upon a motion by Councilman Edwards, seconded by Councilman Ayers, Council voted unanimously to appoint Mr. Craig Orange.

Mr. Orange will replace Mr. Fred Moody. Mr. Orange's term will expire January 31, 1997.

Upon Mr. Ornage's acceptance, the membership will be as follows:

| | |
|----------------|----------------------|
| Glenys Gilbert | Term Expires 1/31/97 |
| Kathy Rabb | Term Expires 1/31/96 |
| James Lindsey | Term Expires 1/31/97 |
| Tom Cline | Term Expires 1/31/96 |
| Fred Moody | Term Expires 1/31/98 |

Alternate Members:

| | |
|--------------|----------------------|
| Miles Brooks | Term Expires 1/31/96 |
| Craig Orange | Term Expires 1/31/97 |

SERVICE AMERICA - REQUEST CHARGE OFF - FUNDS DUE TO CITY: The City Manager advised that he had received a memo from Ms. Claudia Hill, Tax Collector, advising that Service America is requesting that \$218.24 be charged off of their bill.

In October, 1992 Service America filed Bankruptcy. During the period of time Service America was in bankruptcy \$218.24 was unpaid. Since August, 1993 the current bill is paid on time each month, but the previous balance is carried forward each month.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to write off the \$218.24 as requested.

WATER BILL ADJUSTMENT - MR. HEMPHILL: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, advising that Mr. Max Hemphill had a water leak, which resulted in his water bill being extremely high.

Mr. Hemphills monthly bill runs about \$14.00. The bill went to \$161.90 after his allowed adjustment.

Mr. Hemphill is requesting that Council allow him to make monthly payments on this amount.

This request was referred to the Utility Committee.

COMPLAINT - UTILITY CHARGES - MR. FREEMAN: The City Manager presented a memo from Ms. Debi Laughridge, Secretary, advising that Mr. Wayne Freeman is requesting that City Council write off the balance on his account.

Mr. Freeman stated that he moved and had informed the water department to cut his

water service off.

Mr. Freeman is requesting that Council waive this balance of \$38.73 from his account as he has not lived at this residence since 10-13-94.

Upon a motion by Councilman Cross, seconded by Councilman Cross, Council voted to charge the \$38.73 off this account.

The vote was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | Yes |
| Councilman Cross | Yes |
| Councilman Cuthbertson | Yes |
| Councilman Edwards | Yes |
| Councilman Little | No |

COMPLAINT - UTILITY CHARGES - MR. CONNER: The City Manager presented a memo from Ms. Debi Laughridge, Secretary, stating that Mr. Donald Conner of 1012 Perry Street was charged late penalties and water turn on fees totaling \$20.00.

Mr. Conner is requesting Council to waive this amount, due to him being in the hospital.

This matter was referred to the Utility Committee.

RESOLUTION - NATIONAL SCHOOL LUNCH ACT: It was decided to hold this Resolution until the next regular scheduled City Council meeting.

IPDC - APPOINT ONE MEMBER: The City Manager presented a letter from Mr. Paul Hughes, advising that his term as a Member of the Isothermal Planning and Development Commission will expire in April 1995.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to reappoint the City Manager to another three year term, said term to expire April 1998.

RESOLUTION - RETIREMENT BENEFIT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

**RESOLUTION
RETIREMENT BENEFIT**

WHEREAS, City employees retiring after a minimum of twenty (20) years of service, have devoted a major portion of their work years to serving the residents of the City of Marion; and

WHEREAS, employees retiring from work may have certain financial needs prior to receiving their first retirement checks.

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

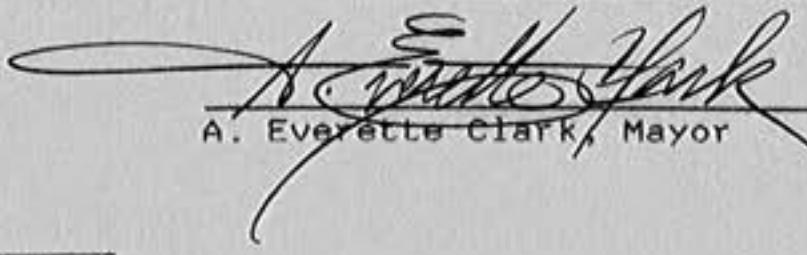
Section 1. That it shall be the policy of the City of Marion to provide each employee retiring from employment with the City of Marion, after a minimum of twenty (20) years of service, a cash gift equal to two weeks pay.

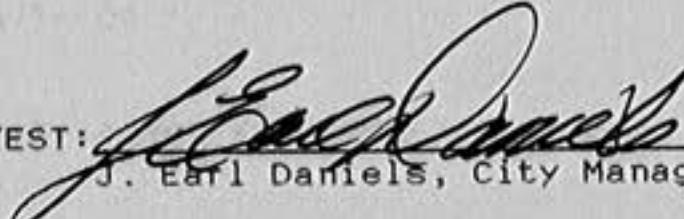
Section 2. That this gift shall be in addition to any payment for unused vacation leave.

Section 3. That said retiring employee shall not be paid a Longevity payment for any time worked since the last Longevity Check was issued by the City.

Section 4. That said gift shall not be paid from City Taxes or from other State collected Local taxes not authorized for such purposes.

Adopted this the 7th day of February, 1995.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

Resolution No: R-95-02-07-1

RESOLUTION - MEDICAL INSURANCE COVERAGE - FOR RETIRING EMPLOYEES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

RESOLUTION

POLICY ON MEDICAL INSURANCE COVERAGE
FOR RETIRED EMPLOYEES

WHEREAS, certain City employees have devoted a major portion of their work years to providing services to residents of the City of Marion; and

WHEREAS, these employees, having served a minimum of twenty (20) years are able to retire because of years of service, but continue to work due to the high costs for medical insurance coverage; and

WHEREAS, the City Council for the City of Marion believes the City should help to defray the costs for medical insurance for these employees should they desire to retire.

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

Section 1. That it shall be the policy of the City of Marion to pay one hundred (\$100.00) per month to the City's Medical Insurance Carrier toward Medical Insurance Coverage for employees retiring from City employment after serving the City of Marion for a minimum of twenty (20) years and reaching fifty-five (55) years of age.

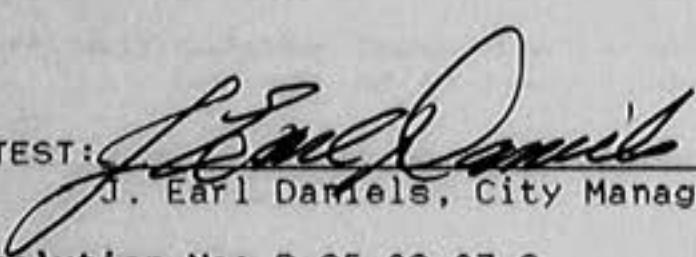
Section 2. That said retired employee will be required to pay, in advance, the difference between the actual cost of Medical Insurance Coverage and the one hundred (\$100.00) per month contributed by the City. The employee may continue to provide insurance coverage for his/her dependents, carried at the time of retirement, by paying the total necessary premiums, in advance.

Section 3. That should the City of Marion, at anytime, decide to discontinue this benefit to retired City employees, said employees will be given the opportunity to continue to carry medical insurance coverage by paying to the City, in advance, the entire premiums.

Adopted this the 7th day of February, 1995.



A. Everette Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

Resolution No: R-95-02-07-2

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn on February 7, 1995, at 8:45 P.M.

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

February 21, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, February 21, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, Mike Edwards and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Freddie Killough, Downtown Business Association Director; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF Radio.

GUESTS PRESENT: Mr. Garland B. Franklin, 234 Spring Street, Marion, North Carolina 28752.

UTILITY COMPLAINT - MR. MAX HEMPHILL: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept the recommendation of the Utility Committee to adjust Mr. Hemphill's water bill to \$28.00.

Details of this Complaint can be found in Minute Book nine (9) on page fifty-nine (59).

UTILITY COMPLAINT - MR. DONALD CONNER: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to deny this request.

Details of this complaint can be found in Minute Book nine (9) on page sixty (60).

W/S CONNECTION REQUEST - MR. PAUL POTEAT: The City Manager informed City Council

that City Policy requires that Council approve all sewer connections to properties outside the City Limits. He advised that Mr. Paul Poteat of Box 1200, Hwy. 221 South has submitted an application requesting to be placed on the City of Marion Sewer Service.

The utility Committee met prior to this meeting and recommends that Mr. Poteat's request be approved.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to accept the recommendation of the Utility Committee to approve this request.

W/S CONNECTION REQUEST - MR. K. C. BYRD JR: Mr. K. C. Byrd Jr. of Victory Drive submitted an application requesting to be placed on the City of Marion Sewer Service.

The utility Committee met prior to this meeting and recommends that Mr. Byrd's request be approved.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the recommendation of the Utility Committee to approve this request.

Councilman Little suggested that the City Manager and Public Works Director be authorized to approve connections to the City sewer system from properties outside the city limits. A motion was made by Councilman Little, seconded by Councilman Ayers, authorizing the City Manager and Public Works Director to approve sewer connections outside the city limits if the property is served by both the City water and sewer systems.

REQUEST TO EXTEND PORTION OF HUNT STREET: The City Manager advised that a request has been made for Hunt Street to be extended.

The Street Committee met prior to this meeting and recommends approval provided the owners deed to the City, at no cost to the City, a right of way with a width of at least 20 feet.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the recommendation of the Street Committee.

REQUEST TO REMOVE TREES - OAK GROVE CEMETERY: The City Manager advised that there are seven dead or dying trees in the cemetery which need to be removed.

In addition, there are thirteen trees which are doing damage and also need to be removed.

All of the above trees are located on the street or alley rights of way in the Oak Grove Cemetery.

The City Manager stated that there are other trees and/or shrubs that need attention which are located on private lots, and is requesting permission to notify the owners or heirs to take care of these problems. Permission is also requested to allow City Workers to take care of this work if owners or heirs cannot be located.

Councilman Edwards asked if the City could run some kind of Legal Notice in the McDowell News as an extra effort in trying to contact these owners.

Upon a Motion by Councilman Little, seconded by Councilman Ayers Council voted unanimously to approve this request and to run a Legal Notice in the McDowell News notifying property owners and heirs prior to City forces working on any private lots.

STREETS PROPOSED TO BE ADDED TO CITY STREET SYSTEM: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

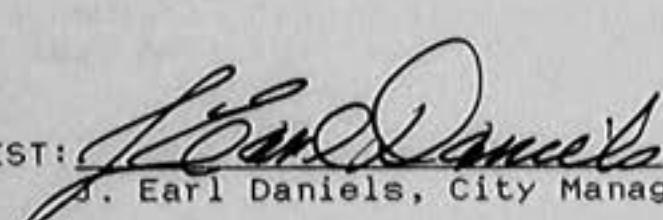
**RESOLUTION
ADDING STREETS TO CITY STREET SYSTEM**

BE IT RESOLVED that the City Council for the City of Marion, North Carolina, hereby asks and petitions that the State Department of Transportation transfer the below listed streets to the City of Marion for maintenance, upkeep and repair:

| SR# | STREET NAME | LENGTH | WIDTH |
|------|---------------|--------|-------|
| 1710 | Circle Street | 947' | 16.6' |
| 1713 | First Street | 700' | 18.6' |
| 1714 | Second Street | 660 | 20.0' |
| 1715 | Third Street | 681 | 20.0' |
| 1708 | Fourth Street | 620' | 20.0' |
| 1716 | Fifth Street | 606' | 20.0' |
| 1717 | Sixth Street | 1,075' | 21.0' |
| 1711 | Cross Street | 135' | 16.0' |

Adopted this the 21st day of February, 1995.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-02-21-1

RESOLUTION - NATIONAL SCHOOL LUNCH ACT: Upon a motion by Councilman Ayers, seconded by Councilman Edwards, Council voted to adopt the National School Lunch Act Resolution. The vote was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | YES |
| Councilman Cross | YES |
| Councilman Cuthbertson | YES |
| Councilman Ayers | YES |
| Councilman Little | NO |

RESOLUTION

WHEREAS the National School Lunch Act was enacted in 1946, "as a measure of national security, to safeguard the health and well-being of the Nation's children",

WHEREAS the Child Nutrition Act of 1966 was enacted "in recognition of the demonstrated relationship between food and good nutrition in the capacity of children to develop and learn",

WHEREAS the School Lunch Program currently serves 25 million children each day in over 90,000 schools;

WHEREAS the School Breakfast Program currently serves approximately 5 million children each day;

WHEREAS federal funding for the School Lunch and Breakfast Programs goes to the school to provide nutritious meals that prepare all children to learn;

WHEREAS the Personal Responsibility Act would reduce funding for school meals by approximately 17% in fiscal year 1996;

WHEREAS the McDowell County school system serves 4100 school lunches and 1100 school breakfasts every day;

WHEREAS the impact on the Child Nutrition Program in McDowell County would be over \$400,000 per year;

WHEREAS the cost of school lunch would increase by over 40% just to make up the lost funding;

WHEREAS the Personal Responsibility Act would jeopardize the continuation of the School Lunch Program in over 40,000 schools (of the 90,000 schools) participating in the program;

WHEREAS the Personal Responsibility Act would severely restrict how the funds could be used at the local level to accomplish the goal of feeding children;

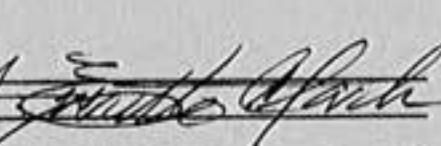
WHEREAS hungry children cannot learn and illiterate adults cannot compete in a world economy;

WHEREAS a child that is ill-fed is dulled in curiosity, lowered in stamina, and distracted from learning; and

WHEREAS the School Lunch and Breakfast Programs are not Welfare programs;

NOW THEREFORE BE IT RESOLVED THAT The Senate and House of Representatives of the United States should reject a block grant of the School Lunch Program, the School Breakfast Program, and the Commodity Distribution Program, continuing their long support of these essential federal programs.

CITY OF MARION:

City Manager 
Mayor

Councilman

Councilman

Councilman

Councilman

Councilman

Resolution Number: R-95-02-21-2

UNPAID 1994 REAL PROPERTY TAXES: The City Manager advised that he had received a memo from Ms. Claudia Hill, Tax Collector, regarding unpaid taxes for 1994 Real Property Taxes.

Total unpaid taxes as of February 17, 1995 are \$83,592.24.

A list of each taxpayer owing 1994 Real Property Taxes is available to Mayor and Council upon your request.

CITY-COUNTY AGREEMENT - RESOLUTION - INDUSTRIAL PARK: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

**A RESOLUTION OF COOPERATION BY THE COUNTY OF McDOWELL
AND THE CITY OF MARION
TO PROVIDE FOR THE EXTENSION OF UTILITY LINES
TO THE McDOWELL COUNTY INDUSTRIAL PARK**

WHEREAS, G. S. 160A-461 authorizes units of local governments to enter into Interlocal Agreements; and,

WHEREAS, The governing boards of the City of Marion and McDowell County recognize the value of extending utility water and sewer lines to the industrial park site located on Hwy 221 South; and,

WHEREAS, Four grants totaling \$533,400 were received by the City of Marion and McDowell for this purpose; and,

WHEREAS, The total estimated cost of the extension of water and sewer service to the industrial park site as described by McGill and Associates and attached is \$932,050; and,

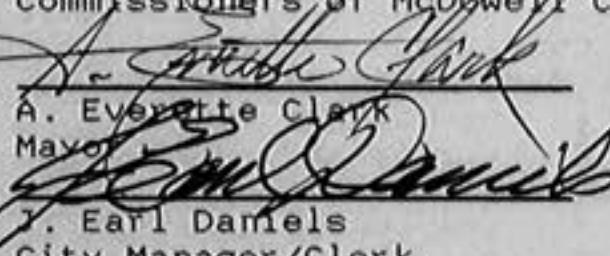
WHEREAS, The realization of this goal is a priority of mutual interest and is best accomplished jointly and cooperatively.

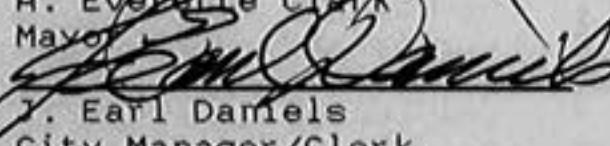
NOW, THEREFORE, BE IT JOINTLY RESOLVED BY THE GOVERNING BOARD'S OF THE CITY OF MARION AND THE COUNTY OF McDOWELL:

1. The City of Marion shall administer the project including advertising, administering the bidding process, overseeing the inspection and installation of the contract regarding water and sewer lines as described in Exhibit A and titled "Contract Documents McDowell County Industrial Park Water And Wastewater System Improvements." McDowell County shall approve construction contracts awarded by the City of Marion.
2. The Project will be financed by four grants that have been approved for this project. One grant in the amount of \$108,000 from the division of Environmental Health and one grant in this amount of \$125,400 from the Division of Environmental Management will be received by the City of Marion. McDowell County will receive two grants, Appalachian Region Commission Grant for \$200,000 and a Rural Center grant for \$100,000. McDowell County will provide the estimated balance of \$398,650 for the completion of the project through an Installment Purchase Financing Agreement for a period of five years. The total project estimate is \$932,050.
3. The City of Marion will establish a Capital Reserve Fund for this project. The City of Marion shall submit approved invoices to McDowell County and McDowell County will request payment from the financial institution to the City for funds to pay said bills.
4. McDowell County will be responsible for any cost over runs that occur. The City of Marion will only provide funding as provided for in the two grants received by the City. McDowell County will receive any unused funds including interest that may exist after the project is completed.
5. McDowell County will own the installed utility lines and appurtenances during the period of the installment contract until July 1, 2000 at which time it will convey its ownership in all water and sewer lines and appurtenances to the City of Marion.
6. The City of Marion shall at all times keep and maintain at its expense the water and sewer lines and all related appurtenant facilities in a good state of repair and operation.
7. It is the intent of the City of Marion to supply to McDowell County an amount of water and sewer to the McDowell County Industrial Park of not to exceed 500,000 gallons per day of sewer and 500,000 gallons per day of water. In the event that unforeseen regulations or circumstances make this goal not feasible, the Marion City Council and Board of Commissioners will assess the circumstances and negotiate to resolve the matter at that time.

8. It is understood and agreed that the citizens of the City of Marion have first claim upon the water supply and wastewater facilities of the City of Marion and that nothing in the foregoing agreement shall be construed to effect the priority of said claim.

This Resolution is hereby approved by the City Council of Marion and The Board of Commissioners of McDowell County.


A. Everette Clark
Mayor


J. Earl Daniels
City Manager/Clerk

Terry L. Smith, Chairman
Board of Commissioners

Carrie Padgett
Clerk to the Board

DATE

DATE

ORDINANCE - ADJUSTMENT OF EXCESSIVE WATER OR SEWER BILLS: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

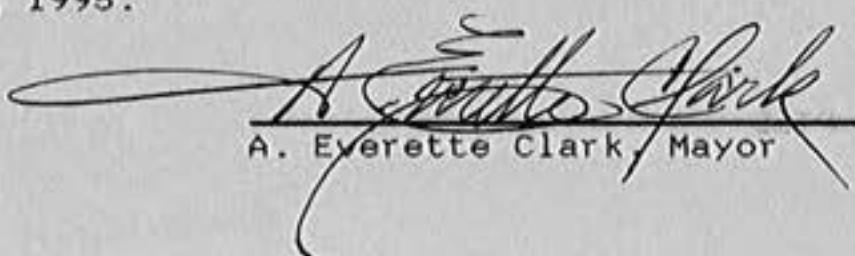
**ORDINANCE
ADJUSTMENT OF EXCESSIVE WATER OR SEWER BILLS**

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

Section 1. That section 20-35 (a) of the Code of Ordinances, City of Marion, North Carolina is hereby amended to read as follows:

(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 or faulty commode, the water bill will be adjusted for the month such leak or faulty commode 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 or faulty commode 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. No adjustments will be made to accounts where the dollar value of the increase is twenty per cent (20%) or less of the average monthly amount of the account. The method of adjustment will 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 only be required to pay a sewer service charge on the average amount of the adjusted bill if the high bill is the result of a leak where water is not discharged to the city sewer system. In such cases a statement from a plumber will be required or the sewer service charge will be adjusted in the same manner as the water charge. Under no circumstances will a customer be required to pay a water and/or sewer charge more than double their average water and/or sewer bill when adjusted in accordance with the procedures listed above.

Adopted this the 21st day of February, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-02-21-1

NATURAL GAS EXPANSION FUND CONTRIBUTION RESOLUTION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

NATURAL GAS EXPANSION FUND CONTRIBUTION RESOLUTION

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

WHEREAS, the North Carolina Utilities Commission ("Utilities Commission") has established an Expansion Fund administered by the State Treasurer for extension by Public Service Company of North Carolina, Inc. ("PSC") of natural gas facilities to and in areas that other wise would not be economically feasible to serve with natural gas and the Order establishing that Expansion Fund, as well as supporting legislation, was upheld by the North Carolina Supreme Court in July, 1994; and

WHEREAS, PSC has filed a Petition with the Utilities Commission seeking approval of funding for natural gas expansion project to extend PSC's natural gas system into McDowell County, to the Town of Old Fort, and to the City of Marion from Buncombe County to provide gas service here for the first time; and

WHEREAS, the Utilities Commission will be considering in the coming months whether to authorize the substantial funding necessary for the proposed natural gas expansion project; and

WHEREAS, there are existing industry and businesses in this City and County which need natural gas service and to which service would be available if this natural gas extension project is constructed and the expansion of gas utility service would assist in recruiting new industry to this area; and

WHEREAS, there is a great demand for the extension of natural gas facilities throughout western North Carolina but limited funds are available to facilitate such extensions; and

WHEREAS, one of the factors the Utilities Commission may consider in deciding whether to approve funding from the Expansion Fund for PSC's system is the extent of contributions from local governments to the project; and Natural Gas Expansion Fund Contribution Resolution

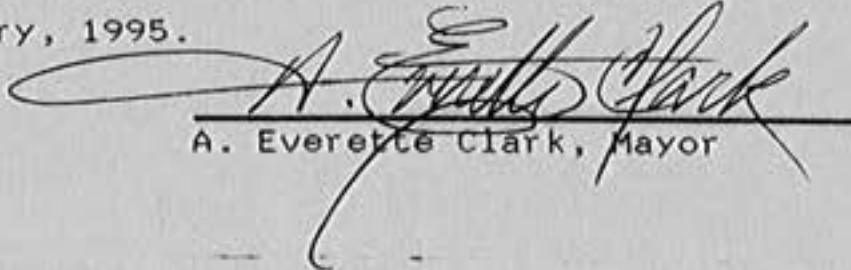
WHEREAS, if the Utilities Commission approves the expansion project proposed by PSC, PSC will construct natural gas facilities in this City and County, which will increase the City and County's tax base at least to the extent of the natural gas facilities and through additional opportunity for industrial development, all leading to increased tax revenues; and

WHEREAS, The City Council for the City of Marion, North Carolina believes that it is appropriate to provide financial assistance to encourage the approval of other funding of the extension of these natural gas utility services to this area;

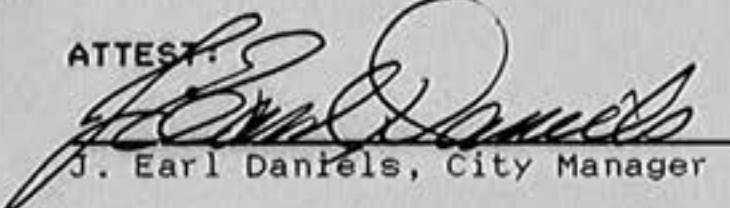
NOW, THEREFORE, BE IT UNANIMOUSLY RESOLVED that the City Council for the City of Marion, North Carolina hereby approves and authorizes the provision of assistance in the extension of PSC's utility services into and through this City in order to promote economic development; such assistance to be in the form of five (5) annual payments to the North Carolina Utilities Commission for deposit with the North Carolina State Treasurer in PSC's Expansion Fund of an amount equal to one hundred percent (100%) of the ad valorem tax revenues received or collected annually by this City from PSC on natural gas facilities constructed in this City as a part of the proposed expansion project; such five (5) annual payments to the Expansion Fund being authorized to begin in the first calendar year after the year in which the proposed natural gas transmission pipeline construction in this City is complete.

BE IT FURTHER RESOLVED that the North Carolina Utilities Commission is hereby notified of this Board's support for the proposed project and desire to appear before the Utilities Commission at a public hearing supporting the approval of PSC's Petition for a natural gas expansion project which will provide gas utility service to Marion and McDowell County.

ADOPTED this the 21st day of February, 1995.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

RESOLUTION NO. R-95-02-21-3

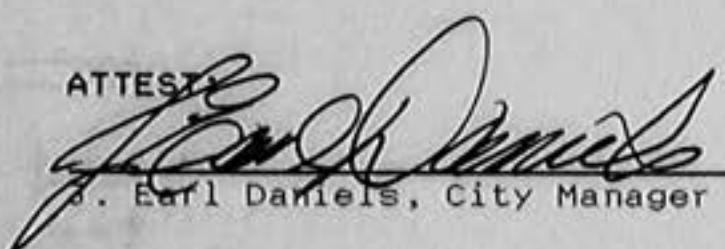
EXECUTIVE SESSION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to go into Executive Session.

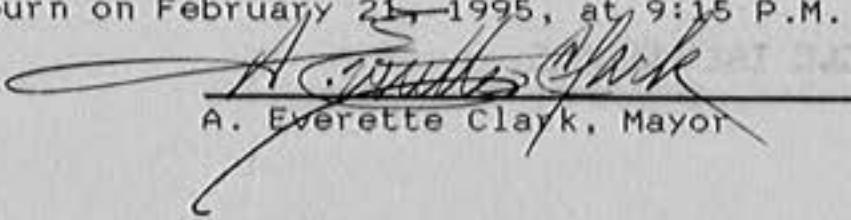
Executive Session Minutes can be found in the executive session book of minutes, in the safe, at City Hall.

REGULAR SESSION: There being no further business, upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to go back into Regular Session.

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn on February 21, 1995, at 9:15 P.M.

ATTEST:


J. Earl Daniels, City Manager


A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 7, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 7, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, and Steve Little.

Councilman Edwards arrived at this meeting at 7:20 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Tom Milligan, Fire Chief; Charles Presnell, Marion Fire Department; Jerry Poteat, Marion Fire Department; Aaron Adams, Street Superintendent; Steve Basney, Water Superintendent; Freddie Killough, Downtown Business Association Director; Roger Watson, News Reporter, The McDowell News; Eric Milsaps, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF Radio; Van McKinney, News Reporter, WBRM; Warren Trivett, News Reporter, The News Bulletin; Gary McGill and Danny Bridges, McGill Associates.

GUESTS PRESENT: Alvin and Hazel Callahan, 150 Buck Creek, Marion, N.C. 28752; Fred Nanney, Marion Fire Department; Kevin Owenby, Marion Fire Department; James Laughridge, Jr., Marion Fire Department; Dennis Laws, Marion Fire Department; Jerry Stevens, Marion Fire Department; Jim Neal, Marion Fire Department; Lloyd "Boomer" Cowart, 706 Hwy. 70 West, Marion, N.C. 28752; Woody Killough, 114 Holly Hill Drive, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted to approve the minutes of the February 21, 1995 City Council Meeting.

PUBLIC ADDRESS TO THE BOARD:

ALVIN CALLAHAN - RETIREMENT: Mayor Clark presented Mr. Alvin Callahan with a plaque for his many years of dedication to the City of Marion. The plaque read as follows:

City of Marion, North Carolina
Presented To

Alvin Callahan

For
Twenty Years of Loyal and Dedicated
Service to the Citizens of Marion
A. Everette Clark
Mayor
March 7, 1995

PUBLIC HEARING:

HABITAT FOR HUMANITY - COMMUNITY DEVELOPMENT BLOCK GRANT -HOUSING DEVELOPMENT BLOCK GRANT - HOUSING DEVELOPMENT CATEGORY: The City Manager opened the Public Hearing.

No Citizens attended this Public Hearing regarding the request to authorize Isothermal to proceed with filing an application for Community Development Block Grant Funds to be used to relocate water and sewer lines to allow for construction of seven new homes.

The Public Hearing was closed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Cross, those members of Council present voted to authorize Isothermal to proceed with filing an application for Community Development Block Grant Funds.

1994 Real Property Taxes - Advertise: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting permission to advertise City of Marion 1994 Real Property Taxes in the McDowell News, Wednesday, April 26, 1995.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of

Council present voted to approve this request.

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for five individuals that were billed City of Marion taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

According to Ms. Diane Allred with the McDowell County Tax Office, once a vehicle tax is billed, a person has thirty days to appeal the valuation and situs. If the bill is not appealed in that time period, they must pay the entire bill and then request a refund from the City. (General Statute 105-330.)

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted unanimously to approve the requests for refunds as follows:

| NAME | VEHICLE | ADDRESS | AMOUNT |
|---------------------------|------------------------|---------|-------------------|
| ===== | ===== | ===== | ===== |
| Paul Edward Jarlson | Rt 2, Box 437-A, Nebo | 22.08 | 11120 11200 11200 |
| 1983 Chevrolet Blazer | | | |
| Tax Value \$3,530.00 | | | |
| Melonie Causby Hensley | 103 Burma Road, Marion | 87.72 | 11120 11200 11200 |
| 1993 Plymouth Van Voyager | | | |
| Tax Value \$14,330.00 | | | |
| Frances E. Bumgarner | Hwy 126, Nebo | 111.92 | 11120 11200 11200 |
| 1994 Jeep Cherokee | | | |
| Tax Value \$18,690.00 | | | |
| Alice Elaine Waters | 323 Summit Street | 30.45 | 11120 11200 11200 |
| 1989 Pontiac Sunbird | | | |
| Tax Value \$4,870.00 | | | |
| Mary Catherine Wheeler | Pinnacle Church Road | 96.23 | 11120 11200 11200 |
| 1993 Chevrolet Van Astro | | | |
| 4 x 2 EXT | | | |
| Tax Value \$15,960.00 | | | |

CLEAR-WELL AND RESERVOIR UPDATE - MCGILL ASSOCIATES

A. VALVE REPLACEMENT - CLEARWELL: Mr. Gary McGill of McGill Associates, appeared before Council to advise that a valve used to separate the two sections of the one million gallon clear-well needed to be replaced. He stated that the valve was installed in accordance with plans and specifications. He advised that the type valve used allowed for some leakage between the sections. Since the valve does allow some leakage then one side of the clear-well could contaminate the other side. He informed Council that since his firm had specified the type valve used, that he would pay for replacement of the valve to a type ^{that} does not allow for any leakage. The estimated cost is \$7,000. He informed Council that it would take approximately three months to receive and install the valve and that a plate is needed to be installed until the valve can be installed. The steel plate will allow one section of the clear-well to be used until the valve can be installed. He asked that the City pay for the cost of the plate.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, Council voted unanimously to pay for the temporary plate.

ORDINANCE - ESTABLISH NO PARKING ZONES ON 1ST STREET IN EAST MARION: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
NO PARKING ZONES
FIRST STREET, EAST MARION

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

Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| STREET | SEC. | 1982 | REG. | REG. | REGULATION |
|--------|------|------|-------|-------------|------------|
| NAME | CODE | TYPE | LIMIT | APPLICATION | |
| | APP. | | | | |

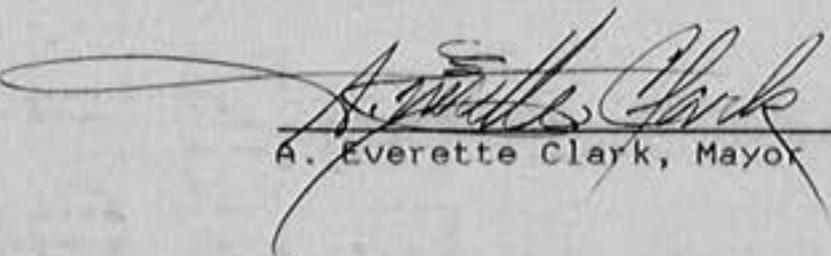
FIRST
STREET 18-239 101 PARKING PROHIBITED SOUTH SIDE, FROM
RIDGE STREET WEST
73 FEET.

FIRST
STREET 18-239 101 PARKING PROHIBITED SOUTH SIDE, FROM
RIDGE STREET EAST
157 FEET TO THE CITY LIMITS.

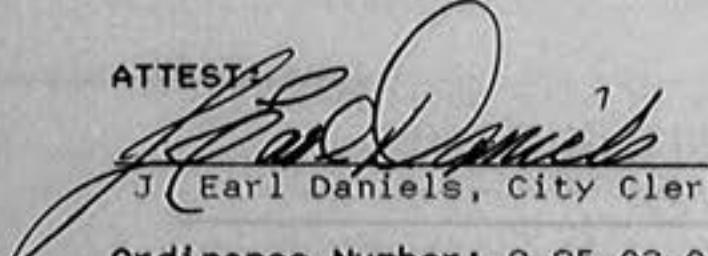
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 7th day of March, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Clerk

Ordinance Number: 0-95-03-07-1

ORDINANCE - ESTABLISH HANDICAP PARKING SPACE ON SPRING STREET: Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
NO PARKING ZONES

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

Section 1. That Section 18-260 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| <u>STREET NAME</u> | <u>SEC. CODE</u> | <u>1982 APP.</u> | <u>REG. TYPE</u> | <u>REG. LIMIT</u> | <u>REGULATION APPLICATION</u> |
|------------------------|----------------------|----------------------|----------------------|-----------------------|-----------------------------------|
|------------------------|----------------------|----------------------|----------------------|-----------------------|-----------------------------------|

| | | | | |
|-------------------------|--------|---------------------|------------------------------------|--|
| SPRING STREET 18-260 | 7-1194 | HANDICAP PARKING | NO PARKING EXCEPT - HANDICAP | NORTH SIDE OF SPRING STREET, BEGIN MAIN STREET, EXTENDS 30 FT. IN AN EASTERLY DIRECTION |
|-------------------------|--------|---------------------|------------------------------------|--|

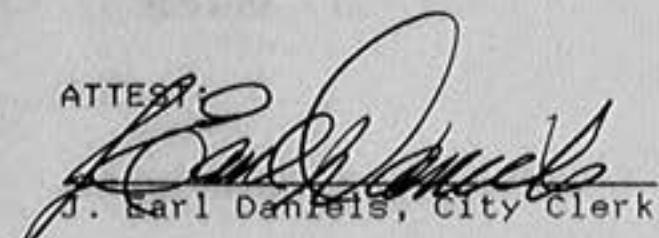
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 7th day of March, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Clerk

Ordinance Number: 0-95-03-07-2

RESOLUTION - SEVERE WEATHER AWARENESS WEEK: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

"SEVERE WEATHER AWARENESS WEEK"

March 5 - 11, 1995

WHEREAS, emergency preparedness is a function of government dependent upon

leadership of the executive officers and efforts of many dedicated volunteers and career civil servants; and

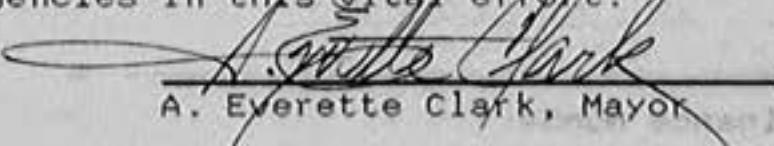
WHEREAS, severe weather claims the lives of North Carolinians every year. The destruction has totalled hundreds of millions of dollars in North Carolina. Often, major weather events such as tornadoes make the headlines, but routine events such as: severe thunderstorms, lightning, high winds, floods, and mud-slides occur more frequently and can also cause widespread damage.

WHEREAS, we must continue to be aware and prepared for whatever the weather may bring and be ready to take action to save lives, minimize injuries and protect property, and

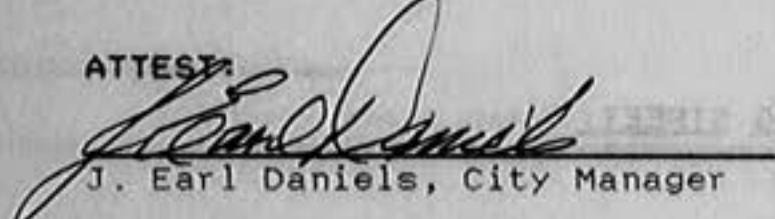
WHEREAS, the Marion City Council being concerned for the safety of its citizens encourages the public to participate in "SEVERE WEATHER AWARENESS WEEK" March 5 - 11, 1995 by monitoring The National Weather Service Emergency Alert System and participating in a state wide Tornado Drill to be held during the mid morning hours of Wednesday, March 8, 1995.

WHEREAS, by participating, the citizens of the City of Marion can reduce the loss of life and property.

FURTHER, we the Marion City Council encourage all agencies of city government to cooperate wholeheartedly with all emergency agencies in this ~~vital~~ effort.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

Resolution Number: R-95-03-07-1

ABC BOARD - APPOINT ONE MEMBER: Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, Council voted unanimously to table this matter.

M.A. FIRE DISTRICT - DISCUSSION ON SERVICE: Terry Smith, Chairman, McDowell County Commissioners and Chuck Abernathy, County Manager were present to discuss with Council funding for the MA Fire District. The City Manager reported that the City had been providing Fire services to the MA District since 1971. He advised that persons in the MA District receive basically the same services as persons in the City Limits but do not pay for the services, other than paying their County taxes. He reported that two trucks owned by the City but designated for the MA District are over twenty years old and that it is getting difficult to find repair parts for trucks that old. In addition, he advised that the City has one truck designated for the City which is also over twenty years old. He stated that the funds received from the County are not sufficient to cover the costs for operating the MA Fire Department and replacing trucks when required. Mr. Smith advised that the County would furnish the two trucks needed for the MA District but he now understands that in addition, the City wants more funds for operating expenses. Mayor Clark advised that the figures tell the story. He stated that the City budget for the Fire Department for 1994-95 is \$275,064 and dividing that figure by the City's population of 4,759 shows that the City taxpayer is paying \$57.80 per person for fire protection. He said the County, according to the McDowell News, is spending a total of \$343,650 for fire protection for the entire County and divided by the County population of 36,238 shows that the County taxpayer is paying \$9.48 per person. He continued by stating that if you add the \$9.48 the City taxpayer is paying to the County to the \$57.80 the City taxpayer is paying to the City, then the City taxpayer is paying \$67.28 per person for fire protection. He stated that is not fair to the City taxpayer. The City taxpayer is not only paying for all of his fire protection but also paying for others as well. The Mayor asked Mr. Smith what it would cost the County if the City did not provide fire protection to the MA District. Mr. Smith replied that it may not cost as much as the Mayor might think. The Mayor suggested that maybe the County should just take over providing fire protection to the MA District and the City just provide fire service within the City Limits.

A long discussion followed but no agreement was reached.

The City Manager was asked to contact the City Auditors and ask that they provide a breakdown of the actual costs for providing fire services to the MA District compared with the cost of providing fire services to the City.

PRIVILEGE LICENSE - AMENDMENT: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

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 -Flea Markets, adopted May 8, 1990, be deleted in its entirety and replaces with the following:

Every person, firm or corporation operating a permanent retail store or the enclosed area of a mall or shopping center, or an open air flea market, where space is rented to others for the purpose of selling goods.

Operator, Per Year: \$100.00

Vendor, Per Year: \$25.00

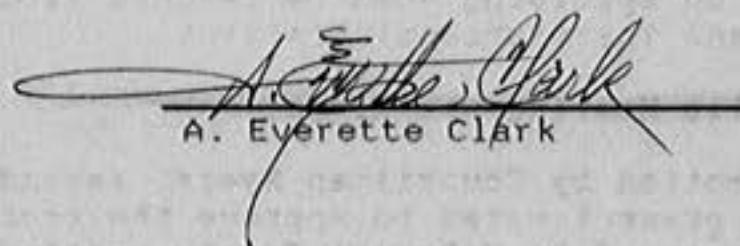
That said vendors, or persons selling new items, shall have permanent or fixed locations at the flea market and shall sell items there on a regular basis.

That persons setting up a booth at the flea market no more than one time per month, selling used items, shall be exempt from this license. In the event a person sets up a booth in excess of once a month, they shall be charged the vendor license.

Section 2. All Ordinances in conflict with this Ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect on its adoption.

ADOPTED this the 7th day of March, 1995.


A. Everette Clark

ATTEST:


J. Earl Daniels, City Manager/Clerk

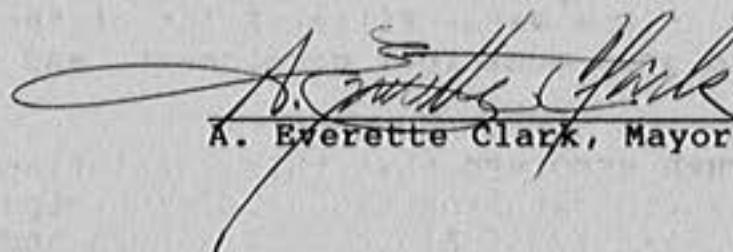
Ordinance Number: 0-95-03-07-1

PLACEMENT OF SIGNS - CITY PROPERTY: The City Manager advised that a request had been made by Ms. Lois Cook to place a sign on city owned property. Ms. Cook is a member of the Citizens Alert Group, who will be using the Marion Community Building for its next meeting. They wish to place a sign on City Property for approximately one week prior to this meeting.

A discussion followed.

It was decided to establish a policy for temporary signs to be placed on the Community Building Property.

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Cross, seconded by Councilman Edwards, Council voted unanimously to adjourn on March 7, 1995, at 11:25 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 21, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 21, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, and Steve Little.

Councilman Mike Edwards arrived for this meeting at 7:25 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Tom Milligan, Fire Chief; Freddie Killough, DBA; Roger Watson, News Reporter, McDowell News; Teresa Sowers, News Reporter, WDLF Radio; Van McKinney, News Reporter, WBRM Radio; Warren Trivett, News Reporter, The News Bulletin.

GUESTS PRESENT: Mr. David Bradburn, 29 Tanya Drive, Nebo, N.C. 28761; Ms. Linda Buchanan, 101 Columbia Avenue, Marion, N.C. 28752; Ms. Kathy Bradburn, 906 Airport Road, Marion, N.C. 28752; Harold Stephan, Foothills Area Program, Nebo, N.C. 28761; Mr. Cliff Fields, State Street Health Department, Marion, N.C. 28752; Nick Hayes, 518 Pinecrest Marion, N.C. 28752;

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to approve the minutes of the March 7, 1995 City Council Meeting.

PUBLIC HEARING:

A. PETITION FOR CHANGE IN ZONING - McDOWELL COUNTY - PROPERTY FOR PROPOSED PUBLIC HEALTH DEPARTMENT - REZONED FROM R-2 GENERAL RESIDENTIAL DISTRICT TO O-I OFFICE AND INSTITUTIONAL DISTRICT: The City Manager opened the Public Hearing.

No Citizens attended this Public Hearing regarding the request that property located on Spaulding Road be rezoned from R-2 General Residential District to O-I Office and Institutional District.

The Public Hearing was Closed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to approve the recommendation of the Planning Board that property owned by McDowell County located on Spaulding Road (Tax Identification No. 1701.17-01-4279) be rezoned from R-2 General residential District to O-I Office and Institutional District as requested.

RESOLUTION - MEMORY - MR. ALVIN F. BRADBURN: Mayor Clark presented the following Resolution on behalf of the North Carolina League of Municipalities to the Children of Mr. Alvin Bradburn:

RESOLUTION
of the
North Carolina League of Municipalities

WHEREAS, during the past year death has taken from our midst Alvin F. Bradburn, who served the City of Marion faithfully and well for 17 years; and

WHEREAS, Alvin F. Bradburn contributed materially over these years to the advancement of good municipal government in North Carolina;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities, in Annual Convention assembled this 18th day of October 1994, that the delegates do hereby express their sorrow at the passing of Alvin F. Bradburn, former Operator of the Water Filter Plant of the City of Marion, who made lasting contributions to good municipal government, and whose memory we are proud to honor.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities, and that copies be forwarded to the family of Alvin F. Bradburn and to the City of Marion.

Resolution No. R-95-03-21-1

RESOLUTION - RETIREMENT - MS. NORA L. ARROWOOD - MR. BILL B. HUNNICUTT - MR. RICHARD V. LILLY: Mayor Clark read the following Resolutions presented by the North Carolina League of Municipalities which will be mailed to former City of Marion Employees:

Ms. Nora Lee Arrowood:

RESOLUTION
of the
North Carolina League of Municipalities

WHEREAS, Nora Lee Arrowood retired during the past year, after serving the City of Marion faithfully and well for 16 years; and

WHEREAS, Nora Lee Arrowood contributed materially over these years to the advancement of good municipal government;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities, in Annual Convention assembled this 18th day of October 1994, that the delegates do hereby honor Nora Lee Arrowood, former Police Officer of the City of Marion for faithful service and lasting contributions to good municipal government.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities and that copies be

forwarded to Nora Lee Arrowood and to the City of Marion.

Resolution No. R-95-03-21-2

Mr. Bill B. Hunnicutt:

**RESOLUTION
of the
North Carolina League of Municipalities**

WHEREAS, Bill B. Hunnicutt retired during the past year, after serving the City of Marion faithfully and well for 11 years; and

WHEREAS, Bill B. Hunnicutt contributed materially over these years to the advancement of good municipal government;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities, in Annual Convention assembled this 18th day of October 1994, that the delegates do hereby honor Bill B. Hunnicutt, former Chief Operator - Waste Treatment Plant of the City of Marion for faithful service and lasting contributions to good municipal government.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities and that copies be forwarded to Bill B. Hunnicutt and to the City of Marion.

Resolution No. R-95-03-21-3

Mr. Richard V. Lilly:

**RESOLUTION
of the
North Carolina League of Municipalities**

WHEREAS, Richard V. Lilly retired during the past year, after serving the City of Marion faithfully and well for 5 years; and

WHEREAS, Richard V. Lilly contributed materially over these years to the advancement of good municipal government;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities, in Annual Convention assembled this 18th day of October 1994, that the delegates do hereby honor Richard V. Lilly, former Operator - Waste Treatment Plant of the City of Marion for faithful service and lasting contributions to good municipal government.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities and that copies be forwarded to Richard V. Lilly and to the City of Marion.

Resolution No. R-95-03-21-4

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for five individuals that were billed City of Marion taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to approve the requests for refunds as follows:

NAME

| VEHICLE | ADDRESS | AMOUNT |
|---|--|---------------|
| ===== | ===== | ===== |
| Marvin Devaney Church 1990 Toyota Pick-Up Tax Value \$7,860.00 | Harmony Grove Road Nebo, NC | 49.59 |
| John Robert Roper 1976 Chevrolet Camaro Tax Value \$830.00 | Route 3, Box 278-A Pinnacle Church Road Nebo, NC | 5.08 |
| Theresa Miser Lowery 1988 Chevrolet Camaro Tax Value \$4,720.00 | Route 6, Box 707 7 Riverview Road | 29.52 |
| Debbie Adkins Benton 1993 Nissan Maxima Tax Value \$17,040.00 | Route 1, Box 153B Nebo, NC | 107.33 |
| Alice Marie Rhodes 1988 Chevrolet Corsica Tax Value \$3,690.00 | Old Nebo Road Nebo, Nc | 22.59 |

RESOLUTION FOR APPROVING LOCAL WATER SUPPLY PLAN: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

RESOLUTION FOR APPROVING LOCAL WATER SUPPLY PLAN

WHEREAS, G. S. 132-355 (1) requires that each unit of local government that provides public water services or plans to provide such services shall, either individually or together with other such units of local government, prepare and submit a local water supply plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a water supply plan for The City of Marion has been developed and submitted to the City Council for approval; and

WHEREAS, the City Council finds that the water supply plan is in accordance with the provisions of G.S. 143-355 (1) and that it will provide appropriate guidance for the future development of water supplies for the City of Marion, as well as useful information to the Department of Environment, Health, and Natural Resources for the development of a State water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the water supply plan entitled Water Supply Plan, City of Marion, dated February, 1994, is hereby approved and shall be submitted to the Department of Environment, Health and Natural Resources, Division of Water Resources; and

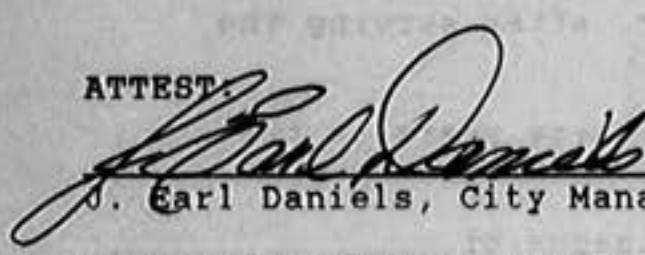
BE IT FURTHER RESOLVED that the City Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 21st day of March, 1995.



A. Everette Clark

ATTEST:



J. Earl Daniels, City Manager/Clerk

RESOLUTION NUMBER: R-95-03-21-5

ABC BOARD - APPOINT ONE MEMBER: It was decided to hold this matter until the next regular scheduled City Council Meeting.

K-9 SEARCH TEAM - REQUEST FOR CONTRIBUTION: The City Manager presented Council with a Memo from Tom Pruett, Police Chief, requesting a contribution of \$75.00 for the K-9 Search Team of Burke County. This organization uses dogs for tracking.

The Police Chief advised that the City of Marion has called on them several times.

Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request.

POLICE K-9 - REQUEST - CITY EMPLOYEE: The City Manager presented a memo from Tom Pruett, Police Chief, advising that a City Officer is wanting to purchase a police canine. The Officer plans to purchase and maintain the dog at their own expense. The dog would be with the Officer while on duty.

It was decided by Council to hold this request until further information could be obtained in reference to City Liability.

COMMUNITY BUILDING - POLICY ON SIGNS: Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to approve the following Policy on Signs for the Marion Community Building:

CITY OF MARION
MARCH 1995

POLICY ON SIGNS PERMITTED TO BE PLACED IN FRONT OF THE MARION COMMUNITY BUILDING.

REQUIREMENTS:

1. ONLY ONE SIGN MAY BE DISPLAYED AT ANY TIME.
2. THE SIGN MUST BE PLACED AT THE ONE LOCATION DESIGNATED BY THE CITY.
3. SIGNS MAY BE NO LARGER THAN FOUR (4') FEET HIGH AND EIGHT (8') FEET LONG.
4. NO SIGNS WILL BE ALLOWED EXCEPT FOR SIGNS RELATED TO ACTIVITIES SCHEDULED AT THE COMMUNITY BUILDING.
5. SIGNS WILL BE PLACED ON A FIRST COME, FIRST SERVED BASIS.
6. SIGNS MAY BE PLACED NO EARLIER THAN SEVEN (7) DAYS IN ADVANCE OF THE SCHEDULED ACTIVITY AND MUST BE REMOVED NO LATER THAN THE NEXT WORK DAY AFTER THE SCHEDULED EVENT.
7. SIGNS WILL BE PLACED ON EXISTING POSTS OVER THE "MARION COMMUNITY BUILDING" SIGN ON HOOKS OR BOLTS PROVIDED OR UNLIGHTED TRAILER SIGNS MAY BE USED BUT WILL BE PLACED BY CITY EMPLOYEES.
8. NO SIGNS WILL BE TACKED, NAILED OR BOLTED TO THE SIGN POSTS BUT SUPPORTED BY

THE HOOKS OR BOLTS PROVIDED ON THE POSTS.

9. SIGNS WILL BE PLACED AND REMOVED BY CITY PERSONNEL ONLY.

10. NO OTHER SIGNS WILL BE PERMITTED EXCEPT FOR CITY GOVERNMENTAL SIGNS.

11. CITY RESERVES THE RIGHT TO REMOVE ANY SIGN AT ANYTIME OR REJECT ANY SIGN.

M A FIRE DISTRICT: A discussion was held in reference to the City of Marion serving the MA Fire District.

Councilman Cross presented Council with a proposal he felt would better serve the City of Marion while contracting fire services to McDowell County for the MA Fire District.

The proposal made by Councilman Cross was not voted on by Council.

Upon a motion by Councilman Little seconded by Councilman Ayers, Council voted to approve an Agreement between the City of Marion and McDowell County for continued service to the MA Fire District by the City of Marion. Councilman Little will draw up this agreement, which was verbally presented, and submit to Council Members for approval.

The vote was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | Yes |
| Councilman Cuthbertson | Yes |
| Councilman Edwards | Yes |
| Councilman Little | Yes |

Councilman Cross No

Mayor Clark stated he was opposed to the agreement, and that he was in the same opinion as Councilman Cross, and that if he had a vote, he would vote no in this matter.

COMPLAINT - SEWER BLOCKAGE - CITY RESIDENT: The City Manager advised that Mr. Mike Edwards had experienced a sewer blockage resulting in a back-up of sewerage in his residence at 208 Glenview Street.

Mr. Glen Sherlin, Public Works Director, stated that it was his opinion that the poor condition of the invert in the man hole below the connection point near Mr. Edwards residence did allow the build up of material which could have blocked the pipe completely allowing the waste water to back up the main sewer line discharging into the basement of Mr. Edwards residence.

Council advised Mr. Edwards to present a copy of invoices at the next City Council Meeting.

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted to adjourn on March 21, 1995, at 9:35 P.M.

~~A. Everett Clark, Mayor~~

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

March 29, 1995

The City Council for the City of Marion met in Special Session on March 29, 1995 at 11:00 A.M., in the Conference Room at City Hall located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Mike Edwards was not present for this meeting.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Milligan, Fire Chief; Roger Watson, News Reporter, The McDowell News; Bonnie Edgar, News Reporter, The Bulletin.

M A FIRE DISTRICT AGREEMENT: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to approve the following Agreement:

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

AGREEMENT

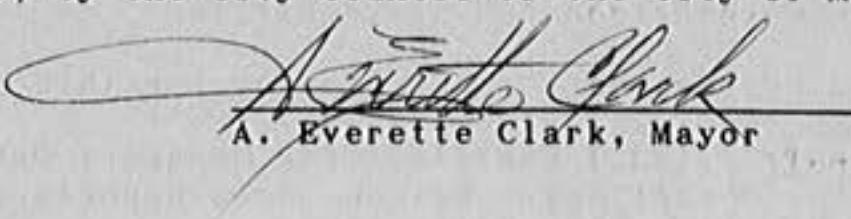
This is an agreement made and entered into by the City of Marion (referred to below as the City) and the County of McDowell (referred to below as the County), to come into effect on July 1, 1995 and continue for a period of one year, for the purpose of dealing with the issue of fire protection services for the Marion Area Fire District.

In consideration of the benefits to each of the parties, the City and County agree as follows:

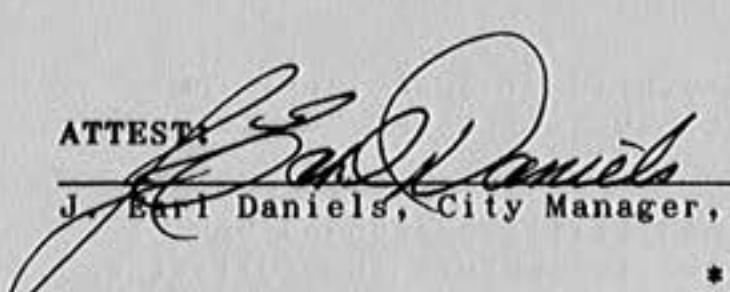
1. The terms of this agreement shall apply to the 1995-1996 fiscal year, which begins July 1, 1995 for both County and City.
2. The City will continue to provide the same level of fire protection and response service to the Marion Area Fire District that it has been providing for over twenty years, in accord with the provisions dealing with the scope of service in the "Contract and Agreement" entered into by these parties on September 7, 1971. A full time fireman employed by the City of Marion will continue to respond to fires and will drive one of the two fire trucks designated for use in the Marion Area Fire District to the scene of fire calls. There will be no change in the City's relationship with the Volunteer Fire Department for the Marion Area Fire District.
3. The County will pay to the City the sum of \$52,500.00 or an amount equal to two (2) times the amount appropriated by the County for each rural fire department, whichever is greater, from the McDowell County General Fund, which shall be considered as one-half for the City of Marion's Fire Department and one-half for the Marion Area Fire Department.
4. The County will also pay to the City the full proceeds of the Special District Tax for the Marion Area Fire District, but regardless of the amount actually produced by such tax, or in the case no tax is imposed, the County will pay to the City a minimum payment of \$40,000.00. All decisions on the Special District Tax will rest solely with the County Commissioners.
5. One-half of the total amount in paragraphs 3 and 4 shall be paid by the County to the City during the month of July, 1995 and the balance shall be paid during the month of January, 1996.
6. The County shall, during the 1995-1996 fiscal year, purchase one new pumper fire truck that shall be designated exclusively for the use in the Marion Area Fire District (except it will be available for Mutual Aid purposes to assist with fires in other areas of McDowell County). The truck shall be owned by the County and shall be leased for one dollar per year to the City for purposes of providing for liability/workers compensation insurance coverage. The new truck shall be housed in and dispatched from the City of Marion Fire Department. The words "Marion Area Fire Department" shall be painted on the new truck. Before paying to the City the amount referred to in paragraphs 3, the County will make one annual payment for the new fire truck. No more than \$25,000.00 will be withheld from the payments to the City referred to in this agreement.
7. The City will continue to evaluate the operational expenses and the capital cost needs of the Marion Area Fire District. The City shall formulate a multiple year plan for continued service by the City for fire protection services in the Marion Area Fire District on a contract basis. The contract offer that the City will submit to the County will include provisions for capital needs, operational costs, inflationary increases, and other reasonable and appropriate terms. The City will present the offer to the County no later than June 30, 1995. The County must accept or reject this offer no later than January 2, 1996.
8. This agreement shall expire on June 30, 1996 or sooner if it is replaced by a new agreement between the City and County.
9. This agreement is adopted by the City Council of the City of Marion and by the County Commissioners of the County of McDowell on the dates appearing below. Each governing body has authorized the signature of the persons signing below to bind the body to the terms of this agreement.

* * * * *

Adopted the 29th day of March 1995, by the City Council of the City of Marion, North Carolina.


A. Everette Clark, Mayor

ATTEST:


J. Bart Daniels, City Manager, Clerk

* * * * *

Adopted the _____ day of _____ by the County Commissioners of the County of McDowell, North Carolina.

ATTEST:

Carrie Padgett, Clerk

Terry Smith, Chairman

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

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

A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
 COUNTY OF McDOWELL
 CITY OF MARION

April 4, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, April 4, 1995, at 7:00 P.M., in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen John Cross, Lloyd Cuthbertson, and Steve Little.

Councilman Ayers arrived for this meeting at 7:35 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF; Van McKinney, News Reporter; WBRM; Jim Miller, News Reporter, The News Bulletin.

GUESTS PRESENT: Lynn Young, Boy Scout Leader, Troop #818; Joel Young, Troop #818; Joseph Hall, Troop #818; Aaron Young, Troop # 818; Benjamin McEntire, Troop 818; Tim McEntire, Troop 818; Scottie Edwards, Marion, N.C. 28752; Bonnie Edwards, Marion, N.C. 28752; John Wanner, 15 Sleepy Hollow Lane, Swananoa, N.C.; Nick Hayes, 518 Pinecrest Drive, Marion, N.C. 28752; John McGrath, Habitat for Humanity.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the Minutes of the March 21, 1995 City Council Meeting including one Amendment by Mayor Clark. Amendment to include statement made by Mayor Clark under M A Fire District as follows:

Mayor Clark stated he was opposed to the agreement, and that he was in the same opinion as Councilman Cross, and that if he had a vote, he would vote no in this matter.

RESOLUTION - MEMORY - ARTHUR C. EDWARDS: Mayor Clark presented the following Resolution on behalf of the North Carolina League of Municipalities to Ms. Bonnie Edwards and Mr. & Mrs. Mike Edwards:

RESOLUTION
 of the
 NORTH CAROLINA LEAGUE OF MUNICIPALITIES

WHEREAS, during the past year death has taken from our midst Arthur C. Edwards, who served the City of Marion faithfully and well for 20 years; and

WHEREAS, Arthur C. Edwards contributed materially over these years to the advancement of good municipal government in North Carolina;

NOW, THEREFORE, BE IT RESOLVED by the North Carolina League of Municipalities, in Annual Convention assembled this 18th day of October 1994, that the delegates do hereby express their sorrow at the passing of Arthur C. Edwards, former Fire Chief of the City of Marion, who made lasting contributions to good municipal government, and whose memory we are proud to honor.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities, and that copies be forwarded to the family of Arthur C. Edwards and to the City of Marion.

Resolution Number: R-95-04-04-95-1

PUBLIC HEARING:

HABITAT FOR HUMANITY - COMMUNITY DEVELOPMENT BLOCK GRANT -HOUSING DEVELOPMENT BLOCK GRANT-HOUSING DEVELOPMENT CATEGORY: The City Manager opened the Public Hearing.

No Citizens attended this Public Hearing to speak in apposition to the Community Development Block Grant Application.

The Public Hearing was closed.

Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to authorize Isothermal to proceed with filing an application for Community Development Block Grant Funds.

This will be the last Public Hearing held concerning the submission of a Community Development Block Grant under the Housing Development Program. These funds will be used to construct approximately 320 LF of 6" water line and approximately 300 LF of 6" sewer line, to serve seven homes which will be built by Habitat for Humanity.

Mayor Clark expressed his appreciation to Mr. McGraft, a Representative of Habitat for Humanity for all the hard work and time he invests for the good of the people through Habitat for Humanity.

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for Mr. Silas Sills, Jr. who was billed City of Marion taxes on his vehicle. Mr. Sills lives and maintains his vehicle outside the City Limits.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted to approve the request for refund as follows:

| | | |
|----------------------|----------------|---------|
| Silas Sills, Jr. | 110 Burma Road | \$42.42 |
| 1988 Honda Accord | Marion, NC | |
| Tax Value \$6,880.00 | | |

FOOTHILLS AREA PROGRAM - EMPLOYEE ASSISTANCE LINKAGE -PRESENTATION: Mr. John Wanner, a Representative of the Foothills Area Program appeared before Council to discuss the Employee Assistance Linkage the Foothills Area Program offers.

A discussion followed.

Council agreed to look into this service and if interested, to include the cost in next years budget.

UTILITY COMPLAINT - MR. EARL CARRIER: The City Manager presented a memo from Ms. Libb Whiteside, Utility Clerk.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted to authorize the City Manager to adjust utility accounts, at his discretion, not to exceed a total of \$100.00. This would be in addition to adjustments authorized by existing Policy.

REQUEST - P & R PRODUCE - LEASE OR RENT PROPERTY: The City Manager presented a memo from Mr. Bob Reel of P & R Produce, requesting permission to rent or lease property owned by the City to use for parking. This property is located on the South Side of the creek off Rutherfordton Road adjacent to his property.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously not to lease or rent City Property.

ABC BOARD - APPOINT ONE MEMBER: The City Manager presented a letter from the Chairman of the ABC Board, Mr. R. W. Teeter, requesting Council to appoint one member to a three year term on the ABC Board. Mr. Harvey L. Parkers' three year term will expire April 1995.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, Council voted unanimously to appoint Mr. Billy Martin to a three year term to the ABC Board. Said term to end in April 1998.

REQUEST - McDOWELL COUNTY S.T.A.Y PROGRAM - WAIVE FEE -COMMUNITY BUILDING BASEMENT: The City Manager presented a letter from Ms. Gina Hensley, Site Coordinator and Ms. Sandra Epperson, Administrator of the McDowell County's

S.T.A.Y. After 3 Program, requesting to use the basement of the Community Building each Tuesday and Thursday, June 20 through August 2, and for Council to waive usage fees.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve this request.

Council specified that the above organization would be totally responsible for any damages to City Property and for any accidents that may occur to participants while in this program.

RECOMMENDATION - TREE COMMITTEE - SIDEWALK - TREES - NORTH GARDEN STREET: The City Manager advised that the Tree Board had recommended removing two trees located on City Right-of-way on North Garden Street due to trees and tree roots damaging the sidewalk.

A discussion followed.

The City Manager advised that the trees are on a State maintained road and the state does not object to the trees. He also informed Council that property owners did not want the trees removed.

Council agreed not to remove the trees, but to replace the sidewalk the best way City Crews could without damaging the trees.

OAK GROVE CEMETERY - THEFT - COUNCILMAN EDWARDS: Councilman Edwards stated that he, as well as many other Citizens, had a tremendous concern over theft in the Oak Grove Cemetery.

A discussion followed.

Police Chief Tom Pruett stated that he had considered placing a concealed surveillance camera in the Cemetery and various other places in the City of Marion.

Council agreed that this would be a good idea and suggested that the Police Chief check into the cost.

REQUEST FOR REIMBURSEMENT - SEWER BLOCKAGE: The City Manager advised that Mr. Mike Edwards submitted a request for reimbursement for damages to his residence as a result of a sewer back up at his residence, at which time Council ask that he submit a copy of damage estimates.

Mr. Edwards presented these estimates totaling \$1,548.93.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted to approve this request for payment in the amount requested.

Councilman Mike Edwards abstained from voting.

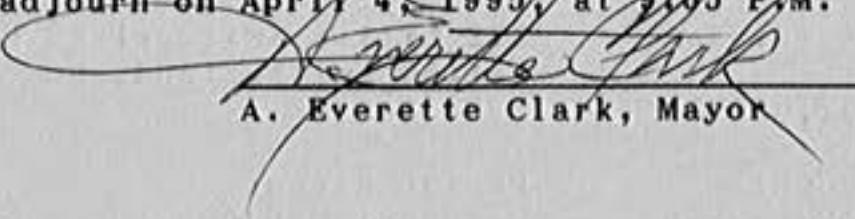
REQUEST - LICENSE TO OPERATE A PLACE OF AMUSEMENT: Tom Pruett, Chief of Police, presented Council with a copy of an application for a License to operate a place of amusement.

Name of applicant is Ms. Mimi Chum Gentry of 1240 East Court Street.

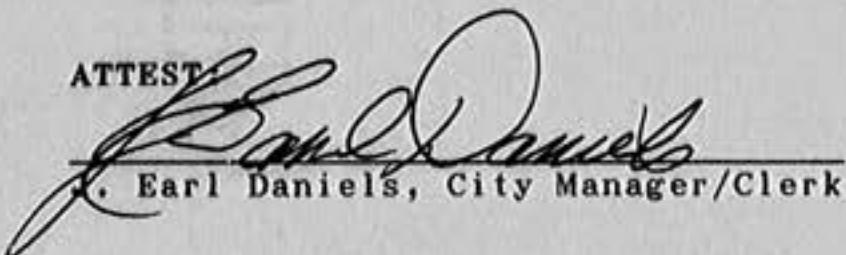
Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve this application.

REMINDER OF CEREMONIES - MARION CORRECTIONAL INSTITUTION: The City Manager reminded Mayor and Council of the Dedication Ceremonies for the Marion Correctional Institution to be held Friday, April 7, 1995 at 2:00 P.M.

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Edwards, seconded by Councilman Ayers, Council voted to adjourn on April 4, 1995, at 9:05 P.M.


A. Everette Clark, Mayor

ATTEST:


Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
 COUNTY OF McDOWELL
 CITY OF MARION

April 18, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, April 18, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross and Lloyd Cuthbertson.

Councilman Mike Edwards arrived for this meeting at 7:30 P.M.

Councilman Little was not present for this meeting due to being out of town.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Director of Public Works; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF; Jim Miller, News Reporter; The News Bulletin.

GUESTS PRESENT: Gary Arnold, 614 Oak Street, Marion, North Carolina 28752, Deryl Tucker, 24 North Clay Street, Marion, North Carolina, 28752; Dean Walker, Garden Street, Marion, North Carolina, 28752; Nick Hayes, 518 Pinecrest Drive, Marion, North Carolina 28752; Layne Cuthbertson, 201 Broad Street, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to approve the minutes of the March 29, 1995 Special Session - City Council Meeting and the April 4, 1995 Regular Session - City Council Meeting.

PUBLIC ADDRESS TO THE BOARD:

DERYL TUCKER - CLAY STREET - SEWER ODOR COMPLAINT: Mr. Deryl Tucker appeared before Council and advised that the City's attempts in correcting the odor problem coming from the sewer lines on Clay and Oak Street have not been successful. He advised that the odor may even be worse.

Mr. Gary McGill, of McGill Associates was present for this meeting and recommended to Council that the City install an inverted "P" trap inside the manhole. The purpose being to hold water in the sewer line and reduce the amount of air that collects in the force main when the pumps are not running. This would reduce the amount of air that is currently discharged from house vents in the area when water is pumped through the force main. Mr. McGill advised that this work could be performed by City forces at a minimal cost.

CONSENT AGENDA: VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting refunds for four individuals that were billed City of Marion taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, those members of Council present voted to approve the requests for refunds as follows:

| NAME | VEHICLE | ADDRESS | AMOUNT |
|----------------------|---------|-----------------------------|--------|
| Edna Woody Mace | ===== | ===== | ===== |
| 1978 Chevrolet | | Allison Holler Road | 2.37 |
| Tax Value \$380.00 | | Marion, NC | |
| | | 1994 Tax | |
| Mary Louise Cisson | ===== | 372 Little Switzerland Road | 44.03 |
| 1992 Ford | | Little Switzerland, NC | |
| Tax Value \$7,090.00 | | 1994 Tax | |
| Darrell D. Cable | ===== | Poplar Street | 57.94 |
| 1990 G M C Dura Van | | Pleasant Gardens, NC | |
| Tax Value \$9,330.00 | | 1993 Tax | |
| Darrell D. Cable | ===== | Poplar Street | 59.82 |
| 1990 G M C Dura Van | | Pleasant Gardens, NC | |
| Tax Value \$9,840.00 | | 1994 Tax | |

REQUEST - 1993 REFUND - K. P. PRICE, JR.: The City Manager advised that he had received a memo from Ms. Claudia Hill stating that Mr. K. Price Jr., had purchased a section of property (PIN 170108995316) off Highland Drive from K. C. Byrd in 1992. When the McDowell County Tax Department did the transfer, the entire tract was transferred instead of a section of the tract.

Mr. Price paid \$250.69 which was the full amount due on the 1993 taxes, instead of

a portion. Mr. Price should have paid on a valuation of \$12,030.00 (\$70.98) and Mr. Byrd should have paid for \$30,460.00 (\$179.71) for 1993 and 1994.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to refund Mr. Price the amount of \$105.72, and to apply the balance of \$73.99 to his 1994 taxes.

CHANGE ORDER REQUEST - LIME STABILIZATION PROJECT - HAREN CONSTRUCTION COMPANY, INC.: The City Manager advised that Haren Construction Company is requesting a change order in the amount of \$7,847.00 for what they claim as additional work resulting from changes made to the contract documents. They also claim these changes resulted in a twenty-one day time extension and a two week delay in the building approval.

City Engineer, Gary McGill was present for this meeting and discussed the many changes in reference to Change Order Request Number 3, and recommended to City Council that this request be denied.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to deny this request. The Engineer was instructed by Council to proceed with closing this project out.

AGREEMENT - ENGINEERING SERVICES - McDOWELL COUNTY INDUSTRIAL PARK WATER AND SEWER FACILITIES: The City Manager presented Council with a revised Agreement for Engineering Services for the McDowell County Industrial Park Water and Sewer Facilities Project. This agreement was entered into by McDowell County but since the project is going to be handled by the City it is necessary for the agreement for engineering services to be with the City of Marion.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to approve the Agreement for Engineering Services offered by McGill Associates, P.A. Said Agreement is filed in legal documents located in the City of Marion Administrative Office as Legal Document Number 645.

CLEARWELL - RECOMMENDATION OF REPAIR METHOD - GARY MCGILL, MCGILL ASSOCIATES: Mr. Gary McGill advised Council that they had completed additional research beyond that of Sutton-Kennerly and Law Engineering in reference to a repair method for the Clearwell.

McGill Associates recommendation to Council is that the top slab be repaired using a two (2) step system. The first step involves the placement of a flexible mesh over any cracks that are 0.02 inches and wider. The mesh would be approximately six (6) inches in width and embedded into an acrylic based membrane placed directly over the crack. The second step involves the placement of a highly flexible and breathable acrylic-based membrane over the entire surface area of the top slab. The membrane would be placed at approximately 60 mils (1/16") thickness. Both of these materials are manufactured by Sto Concrete Restoration of Atlanta, Georgia.

Maintenance of the tank would involve the replacement of the mesh and the associated portion of the acrylic membrane if the existing cracks reflect through to the surface of the membrane. The expected cost for this maintenance is \$2.00 per linear foot of crack in 1994 dollars. The total footage of cracks is approximately 1,000 lineal feet, therefore the worst case of maintenance could be \$2,000 per maintenance cycle. The material may require some maintenance every 15-20 years, therefore three to five cycles would be necessary for an assumed tank life of 50-75 years. Maintenance, therefore, at a worst case would be \$6,000 to \$10,000 in 1994 dollars and assuming all cracks required maintenance at each maintenance cycle.

The wall cracks would be pressure injected from the interior of the tank with a polyurethane chemical grout made by the Sika Corporation, which is approved for contact with potable water and has been used many times in similar installations. The life expectancy for this product is essentially the same as the concrete structure itself due to the consistent environment inside the tank.

The above repair methods would be performed by trained personnel from specialty contractors and could be completed in approximately two to three weeks, once the work is authorized.

Mr. McGill feels that these recommendations adequately address the repair of the cracks in the clearwell within the context of permanency and lack of negative impact on the useful life to the tank. In addition to having the initial repairs completed without cost to the City, they further recommend that a sum of \$10,000 be provided to the City to cover the worst case maintenance costs that could occur over the next 50-75 years.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to accept the recommendation of City Engineer Gary McGill to repair the 1.0 Million Gallon Clearwell as described herein.

1995-96 BUDGET - COST OF LIVING RAISES AND MERIT INCREASES: The City Manager recommended that the City provide a guideline for a cost of living adjustment of 3% to all City employees having completed their probationary period and that each department head be allowed to provide up to a maximum of 2% increase for merit for specific employees presently earning annually \$20,000 or more. Department Heads having employees earning less than \$20,000 a year, may provide merit increases not to exceed 4%.

Council approved this as a guideline to prepare the 1995-96 Budget.

AMENDMENT TO PERSONNEL POLICY - FOR CLARIFICATION: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to approve the following Amendment to the Personnel Policy:

It shall be the policy of the City of Marion to provide regular employees who have completed their probationary period, and are on vacation leave, sick leave, or other approved leave, holiday pay for regularly scheduled holidays falling within the leave period. Employees who are on approved extended leave with pay shall have holidays falling within the leave period added to their vacation time to be used after they return to work. In the event the employee has over the allowed limit for vacation time, the additional time will be transferred to sick leave at the end of the year.

COLLECTION OF TIRES - SANITATION DEPARTMENT: The City Manager advised that a City Ordinance states that the City does not pick up tires; however, at one time, it was decided by Council to pick the tires up from tire dealers if they would load the tires. The dealers have done this. The County is now requiring documentation from the dealers regarding the number of tires discarded and city employees are having to count and document the number of tires and the location where the tires were picked up.

The City is presently charging each of the tire dealers ten dollars per week to pick up tires. Mr. Glen Sherlin, Public Works Director, advised that it is costing the City approximately \$.14 per tire to pick up and haul to the County Landfill. The City handles an average of 366 tires per week. The tires can no longer be hauled in a packer truck, so an open truck has to be used. Since the City does not have an open truck for that specific purpose, the truck must be taken from another operation and this sometimes causes problems. Tires are only accepted at the landfill on Wednesdays.

City Crews also pick up garbage and/or trash from each tire dealer.

Upon a motion by Councilman Ayers, seconded by Councilman Edwards, those members of Council Present voted to continue to pick up the tires at a cost of \$.15 per tire, effective May 1, 1996.

REQUEST - PERMISSION TO HOLD THREE DOWNTOWN SIDEWALK YARD SALES - DBA: The City Manager presented a request from the Downtown Business Association for permission to hold the first of three Sidewalk Yard Sales to be held on May 6, August 5 and November 4, 1995.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted to approve the request.

MACA - MATCHING FUNDS FOR LOCAL GOVERNMENT CHALLENGE GRANT: The City Manager presented a request from McDowell Arts & Crafts Association requesting additional funds from the City of Marion.

The McDowell Arts & Crafts Association has the opportunity to receive matching funds from the Local Government Challenge Grant. This amount will be equal to what the City of Marion contributes to the Association over and above the regular contribution.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to contribute \$10,000.00 (\$5,000.00 Regular Contribution & \$5,000.00 for new fund) to The McDowell Arts & Crafts Association from the 1995-96 budget.

TOWN HALL DAY: The City Manager advised that May 16, 1995 was Town Hall Day in Raleigh.

M A FIRE DISTRICT AGREEMENT: The City Manager advised that Chuck Abernathy, County Manager, had hand delivered an Agreement to his office. The Agreement delivered was not the same Agreement Council voted on at the April 4, 1995 City Council Meeting.

A discussion followed.

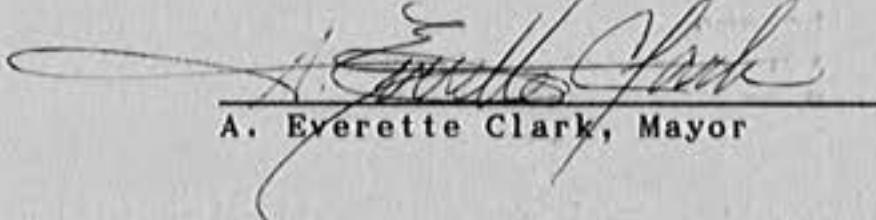
Councilman Edwards made a motion to accept the Agreement as submitted by the County Manager.

The motion died for lack of a second.

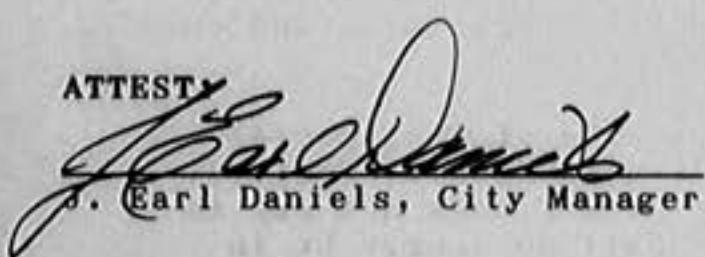
It was decided by Council to hold a Special Session just for the purpose of

dealing with the M. A. Fire District funding.

ADJOURNMENT DATE & TIME: Upon a motion by Councilman Ayers, seconded by Councilman Edwards, those members of Council present voted to adjourn on April 18, 1995, at 10:35 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

April 24, 1995

The City Council for the City of Marion met in Special Session on April 24, 1995 at 7:30 P.M., in the City Council Chamber at City Hall.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Edwards arrived for this meeting at 7:55 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Milligan, Fire Chief; Roger Watson, News Reporter; The McDowell News; Jim Miller, News Reporter, The Bulletin.

GUESTS PRESENT: Woody Ayers, 210 Glenview Street, Marion, N.C. 28752; Dean Buff, County Commissioner; Carroll Hemphill, McDowell EMA; Bobby Anderson and Brad Ledbetter, P. G. Fire Department; Robert Washburn and Jimmy Lowery, Woodlawn Fire Department.

MARION FIRE DEPARTMENT REPRESENTATIVES: Fred Nanney, Dennis Laws, James Laughridge, Kevin Owenby, Jerry Poteat, Brian Stevenson, Charles Presnell, Jimmy Morris, Bruce Edwards and J. J. Laughridge.

M. A. FIRE DISTRICT AGREEMENT: Mayor Clark thanked County Commissioner, Dean Buff for being in attendance for this meeting.

The City Manager stated that County Chairman, Terry Smith called to advise that he and several other County Officials had a prior engagement and would not be able to attend this meeting.

Mayor Clark asked that the City Council take the City Council's Agreement, which was submitted to the County, and compare it to the Agreement received from the County.

Listed below is a draft copy of agreement to be presented to County Commissioners at their May 1, 1995 Meeting.

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT

This is an agreement made and entered into by the City of Marion (referred to below as the City) and the County of McDowell (referred to below as the County), to come into effect on July 1, 1995 and continue for a period of one year, for the purpose of dealing with the issue of fire protection services for the Marion Area Fire District.

In consideration of the benefits to each of the parties, the City and County agree as follows:

1. The terms of this agreement shall apply to the 1995-1996 fiscal year, which begins July 1, 1995 for both County and City.

2. The City will continue to provide the same level of fire protection and response service to the Marion Area Fire District that it has been providing for over twenty years, in accord with the provisions dealing with the scope of service in the "Contract and Agreement" entered into by these parties on September 7, 1971. A full time fireman employed by the City of Marion will continue to respond to fires and will drive one of the two fire trucks designated for use in the

Marion Area Fire District to the scene of fire calls. There will be no change in the City's relationship with the Volunteer Fire Department for the Marion Area Fire District.

3. The County will pay to the City the sum of \$52,500.00 or an amount equal to two (2) times the amount appropriated by the County for each rural fire department, whichever is greater, from the McDowell County General Fund, which shall be considered as one-half for the City of Marion's Fire Department and one-half for the Marion Area Fire Department.

4. The County will also pay to the City the full proceeds of the Special District Tax for the Marion Area Fire District, in the event a Special District Tax is not imposed by June 30, 1995, or in the event the County does not pay to the City the sum of at least \$40,000.00, this Agreement shall no longer be in effect and the City shall have no obligation to provide the service described in this document. All decisions on the Special District Tax will rest solely with the County Commissioners.

5. The total amount in paragraph 3 shall be paid by the County to the City on a quarterly basis. The funds from the Special District Tax will be paid on a quarterly basis following collection by the County.

6. The County shall, during the 1995-1996 fiscal year, purchase one new pumper fire truck that shall be designated for use in the Marion Area Fire District (except it will be available for Mutual Aid purposes to assist with fires in other areas of McDowell County). The truck shall be owned by the County and shall be leased for one dollar per year to the City for purposes of providing for liability/workers compensation insurance coverage. The new truck shall be housed in and dispatched from the City of Marion Fire Department. The words "Marion Area Fire District" shall be painted on the new truck. Before paying to the City the amount referred to in paragraph 4, the County will make one annual payment for the new pumper fire truck. No more than \$25,000.00 will be withheld from the payments to the City referred to in this agreement. The new pumper truck will not be ordered before January 2, 1996.

7. The City will continue to evaluate the operational expenses and the capital cost needs of the Marion Area Fire District. The City shall formulate a multiple year plan for continued service by the City for fire protection services in the Marion Area Fire District on a contract basis. The contract offer that the City will submit to the County will include provisions for capital needs, operational costs, inflationary increases, and other reasonable and appropriate terms. The City will present the offer to the County no later than June 30, 1995. The County will have until January 2, 1996 to accept or reject the offer.

8. This agreement shall expire on June 30, 1996 or sooner if it is replaced by a new agreement between the City and County.

9. This agreement is adopted by the City Council of the City of Marion and by the County Commissioners of the County of McDowell on the dates appearing below. Each governing body has authorized the signature of the persons signing below to bind the body to the terms of this agreement.

* * * * *

Adopted the _____ day of _____ by the City Council for the City of Marion, North Carolina.



A. Everette Clark

ATTEST:

J. Earl Daniels, City Manager/Clerk

* * * * *

Adopted the ----- day of _____ by the County Commissioners of the County of McDowell, North Carolina.

Terry Smith, Chairman

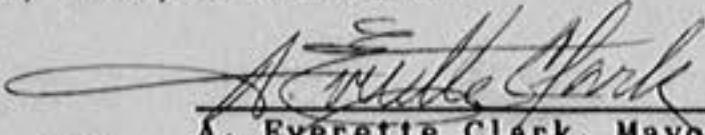
ATTEST:

Carrie Padgett, Clerk

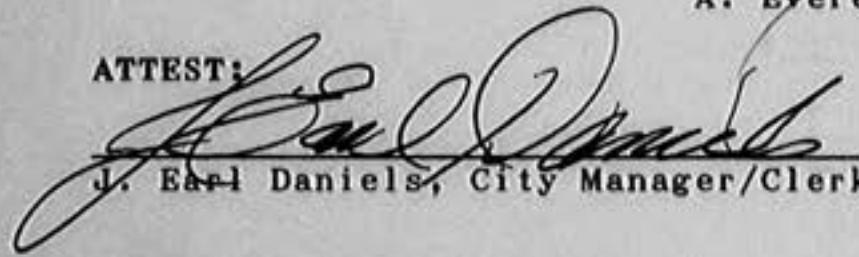
STATEMENT - MAYOR CLARK: Mayor Clark informed the Council that there was too much confusion concerning the proposed Agreement regarding funding for the County M.A. District. He stated that there were at least three different agreements on the subject, but Council had approved only one agreement. He asked that in the future individual Council Members not engage in negotiations on behalf of Council unless

specifically directed to do so by the City Council. He stated several Council members had informed him that all Council Members should be involved with such negotiations.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn this meeting on April 24, 1995, at 9:00 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

May 2, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 2, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross and Lloyd Cuthbertson.

Councilman Edwards arrived for this meeting at 7:15 P.M.

Councilman Little was not present for this meeting due to being out of town.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Director of Public Works; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF; Van McKinney, News Reporter, WBRM; Warren Trivett, News Reporter, The Bulletin.

GUESTS PRESENT: Johnny Patton, Police Officer; Ms. Debbie Patton, 207 Lucky Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to approve the Minutes of the April 18, 1995 City Council Meeting and the April 24, 1995 City Council Meeting.

POLICE CHIEF - RECOGNITION OF OFFICER - COMMUNITY POLICING: Chief Thomas Pruett presented a Certificate of Appreciation to Officer Johnny Patton for his outstanding work with the Community Policing Project.

BIDS - PURCHASE OF ONE NEW MODEL TRACTOR WITH FLAIL MOWER: The City Manager advised Council that bids were received April 26, 1995 for one new model tractor with flail mower.

Bids were as follows:

North Carolina Equipment, Inc.
All specifications for equipment met: Price - \$39,819.00

Marion Equipment Company, Inc.
All specifications for equipment met: Price - \$32,950.00

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to accept the low bid from Marion Equipment Company in the amount of \$32,950.00.

REQUEST - DAVID GIBSON - PRESSURE REDUCER FOR A SIX UNIT APARTMENT COMPLEX: The City Manager advised Council that Mr. David Gibson had contacted him requesting the City of Marion to install a pressure reducer on the City side of the Meter at an apartment complex he owns. Mr. Gibson stated that he would pay for the pressure reducer.

A discussion followed.

Council denied this request.

REQUEST - TRANSFER OF RETIRED CITY CAR TO SHERIFF'S DEPARTMENT: The City Manager presented Council with a memo from the Chief of Police requesting permission to transfer a retired 1988 Chevrolet Caprice to the Sheriff's Department. The Chief advised that the Police Department has no need for the vehicle which has over 136,000 miles on the speedometer.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Edwards, those members of Council present voted to approve this request and transfer ownership of said car over to the Sheriff's Department without remuneration.

REQUEST - PAYMENT TO FORMER CITY POLICE OFFICER - SUBPOENAED IN CIVIL CASE: The City Manager presented a request from Mr. J. J. Ruppe, former Police Officer for the City of Marion, requesting reimbursement for time spent in Superior Court under subpoena in the amount of \$82.68.

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Cross, those members of Council present voted to deny this request.

REQUEST - ORDINANCE - REDUCE SPEED LIMIT - TATE STREET: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
SPEED REGULATIONS

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

Section 1. That Section 18-92 (a) (3) of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

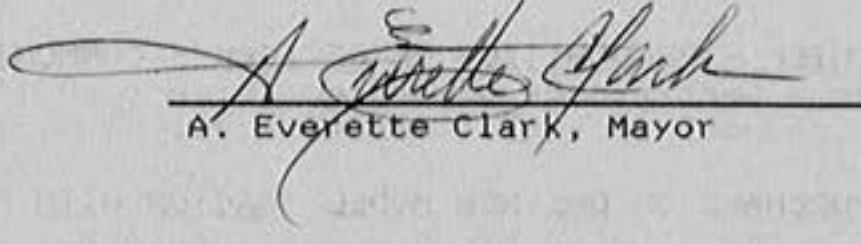
| STREET NAME | SEC. 1982 CODE APP. | REG. TYPE | REG. LIMIT | REGULATION APPLICATION |
|------------------------|------------------------------|----------------|-----------------|--|
| TATE (SR - 1241) | 18-92 (A)(3) | SPEED LIMIT | 25 MPH LIMIT | BETWEEN US 221/ NC 226 BYPASS AND SR 1205 (WEST COURT 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.

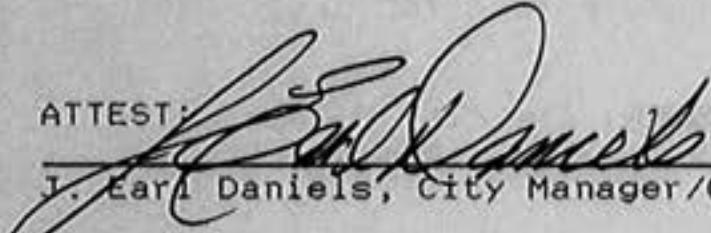
Section 3. All Ordinances in conflict with this Ordinance are hereby rescinded.

Section 4. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 2nd day of May, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-05-02-1

1995-96 BUDGET - McDOWELL INDUSTRIAL PARK: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance and to authorize the City Engineer to proceed with requesting bids at their discretion:

CAPITAL PROJECT BUDGET ORDINANCE

McDOWELL COUNTY INDUSTRIAL PARK

WATER AND SEWER FACILITIES

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

Section 1. The following amounts are hereby appropriated in the Capital Project Budget -McDowell County Industrial Park-for the construction of water and sewer facilities, including engineering fees, administrative and technical services:

EXPENDITURES:

| | |
|--|------------------|
| Construction Costs | \$778,000 |
| Engineering/Administration and Technical Services | 93,360 |
| Contingency | 46,680 |
| Total | <u>\$933,600</u> |

Section 2. It is estimated that the following Revenues will be available for the Project:

REVENUES:

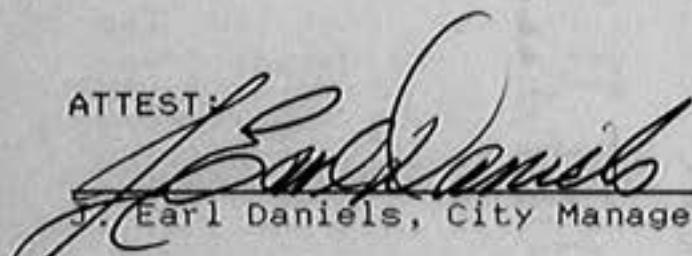
| | |
|--------------------------|-------------------------------------|
| ARC | \$200,000 State (Water Supply Grant |
| Project # SBH-971) | 108,000 |
| State (Project # WT-167) | 125,400 |
| Rural Center | 100,000 |
| Local (McDowell County) | 400,200 |
| Total | \$933,600 |

Section 3. Copies of this Capital Project Ordinance -McDowell County Industrial Park - shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 2nd day of May, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-05-02-2

SPECIAL OLYMPICS - ENDORSEMENT REQUESTED - RECYCLING AUTOMOBILES: The City Manager presented Council with a letter from Mr. Pete Curtice, Development Director of the Special Olympics of North Carolina.

The purpose of the letter was to seek official endorsement of a new project called "Recycle For Gold". This program is designed to perform a public service, improve the environment and to raise funds for the North Carolina Special Olympics at the same time.

They would remove and recycle unwanted automobiles in the City of Marion at no charge to the consumer.

Upon a motion by Councilman Ayers, seconded by Councilman Edwards, those members of Council present voted to endorse this program.

RESOLUTION - SAVING THE ASSAULT WEAPONS BAN: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to adopt the following Resolution:

RESOLUTION
CITY OF MARION
SAVING THE ASSAULT WEAPONS BAN

Whereas, Americans overwhelmingly support common sense gun laws that keep assault weapons out of the hands of criminals and terrorists;

Whereas, efforts are underway to repeal the common sense gun laws that were included in the 1994, which was signed into law by President Clinton on September 13, 1994;

Whereas, Congress is considering legislation (HB 1488) which would not only repeal the ban on 19 specific semiautomatic assault weapons and their large capacity ammunition magazines, but also subject cities and towns to fines for enforcing local ordinances banning or limiting firearms;

Whereas, enactment of this legislation could have a significant impact on local budgets, local authority, and, most important, safety in our communities;

Whereas, the National League of Cities has declared 1995 as a year for Rethinking Public Safety by creating new partnerships that will lead to positive action, increasing public awareness about civic responsibility to ensure safe communities, and strengthening working relationships among levels of government to ensure that public safety is both a community and a national goal;

Whereas, any action to weaken the assault weapons ban and preempt local authority to make decisions about local public safety would represent a giant step backward;

Whereas, the National League of Cities and more than 100 other groups who support common sense gun laws are joining together in a national campaign May 11-17 to educate the public about the impact of Congress' efforts and to save the assault weapons ban;

Now, therefore, be it resolved that the City of Marion opposes any effort to weaken the assault weapons ban and preempt local authority to enact and enforce local ordinances limiting firearms;

Be it further resolved that the City of Marion endorses the efforts of the National League of Cities and other groups to inform citizens about the impact of

pending Congressional action and to work with our Congressional delegation to save the assault weapons ban.

Resolution Number: R-95-05-02-95-1

AGREEMENT - COUNTY M A FIRE DISTRICT: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Agreement:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

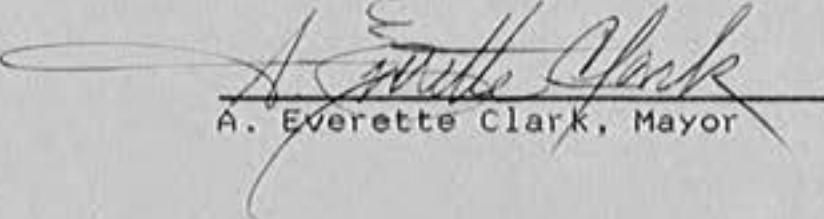
AGREEMENT

This is an agreement made and entered into by the City of Marion (referred to below as the City) and the County of McDowell (referred to below as the County), to come into effect on July 1, 1995 and continue for a period of one year, for the purpose of dealing with the issue of fire protection services for the Marion Area Fire District.

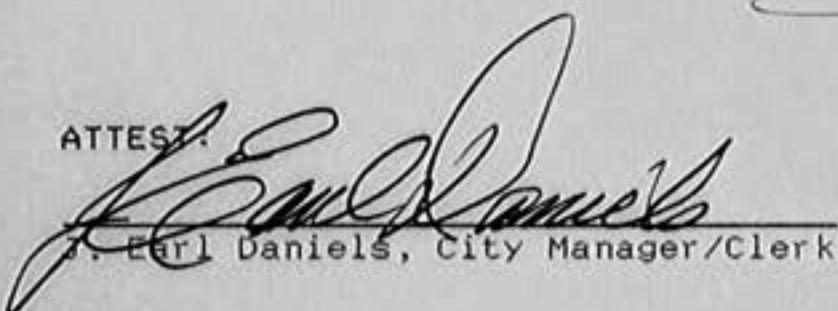
In consideration of the benefits to each of the parties, the City and County agree as follows:

1. The terms of this agreement shall apply to the 1995-1996 fiscal year, which begins July 1, 1995 for both County and City.
2. The City will continue to provide the same level of fire protection and response service to the Marion Area Fire District that it has been providing for over twenty years, in accord with the provisions dealing with the scope of service in the "Contract and Agreement" entered into by these parties on September 7, 1971. A full time fireman employed by the City of Marion will continue to respond to fires and will drive one of the two fire trucks designated for use in the Marion Area Fire District to the scene of fire calls. There will be no change in the City's relationship with the Volunteer Fire Department for the Marion Area Fire District.
3. The County will pay to the City the sum of \$52,500.00 or an amount equal to two (2) times the amount appropriated by the County for each rural fire department, whichever is greater, from the McDowell County General Fund, which shall be considered as one-half for the City of Marion's Fire Department and one-half for the Marion Area Fire Department.
4. The County will also pay to the City the full proceeds of the Special District Tax for the Marion Area Fire District, in the event a Special District Tax is not imposed by June 30, 1995, or in the event the County does not pay to the City the sum of at least \$40,000.00, this Agreement shall no longer be in effect and the City shall have no obligation to provide the service described in this document. All decisions on the Special District Tax will rest solely with the County Commissioners.
5. The total amount in paragraph 3 shall be paid by the County to the City on a quarterly basis. The funds from the Special District Tax will be paid on a quarterly basis following collection by the County.
6. The County shall, during the 1995-1996 fiscal year, purchase one new pumper fire truck that shall be designated for use in the Marion Area Fire District (except it will be available for Mutual Aid purposes to assist with fires in other areas of McDowell County). The truck shall be owned by the County and shall be leased for one dollar per year to the City for purposes of providing for liability/workers compensation insurance coverage. The new truck shall be housed in and dispatched from the City of Marion Fire Department. The words "Marion Area Fire District" shall be painted on the new truck. Before paying to the City the amount referred to in paragraph 4, the County will make one annual payment for the new pumper fire truck. No more than \$25,000.00 will be withheld from the payments to the City referred to in this agreement. The new pumper truck will not be ordered before January 2, 1996.
7. The City will continue to evaluate the operational expenses and the capital cost needs of the Marion Area Fire District. The City shall formulate a multiple year plan for continued service by the City for fire protection services in the Marion Area Fire District on a contract basis. The contract offer that the City will submit to the County will include provisions for capital needs, operational costs, inflationary increases, and other reasonable and appropriate terms. The City will present the offer to the County no later than June 30, 1995. The County will have until January 2, 1996 to accept or reject the offer.
8. This agreement shall expire on June 30, 1996 or sooner if it is replaced by a new agreement between the City and County.
9. This agreement is adopted by the City Council of the City of Marion and by the County Commissioners of the County of McDowell on the dates appearing below. Each governing body has authorized the signature of the persons signing below to bind the body to the terms of this agreement.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn on May 2, 1995, at 8:30 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

May 23, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 23, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Mike Edwards arrived for this meeting at 7:25 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Penn Dameron, City Attorney; Roger Watson, News Reporter, The McDowell News; Teresa Sowers, News Reporter, WDLF Radio.

GUESTS PRESENT: Mr. Gary Arnold, Oak Street, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to approve the Minutes of the May 2, 1995 City Council Meeting.

PUBLIC ADDRESS TO THE BOARD: Mr. Gary Arnold appeared before Council to discuss the sewer smell on Oak and Clay Street. He stated that the smell was still bad. He was advised that the City was going to make some structural changes in the pump station to eliminate solids from collecting in the basin creating a septic odor. The Council thanked Mr. Arnold for keeping the Board advised on the problem.

PUBLIC HEARING:

RICHARD & BETTY STOCK - REZONE PROPERTIES FROM M-1 INDUSTRIAL DISTRICT TO R-2 GENERAL RESIDENTIAL DISTRICT: The City Manager opened the Public Hearing.

No Citizens attended this Public Hearing regarding the request to rezone properties owned by Mr. & Mrs. Richard Stock in the Cross Mill area from M-1 Industrial District to R-2 General Residential District as requested.

A brief discussion followed.

The Public Hearing was closed.

The City Manager informed the City Council that the Planning Board recommends approval of the request.

Upon a motion by Councilman Cross, seconded by Councilman Little, those members of Council present voted to accept the recommendations of the Planning Board and approve the request to rezone the property.

CONSENT AGENDA:

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for persons that were billed City of Marion taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the request for refunds as follows:

| NAME | VEHICLE | ADDRESS | AMOUNT |
|---|---------|---------------------------------|--------|
| Joseph Bunk 1993 Chevrolet Tax Value \$2,600.00 | ===== | ===== | ===== |
| | | Route 1, Box 10 Marshall, NC | 17.87 |

| | | |
|--|-------------------------------------|--------|
| Dale Ballew 1993 GMC Jimmie Tax Value \$17,950.00 | Riverridge Drive Black Mt., NC | 107.50 |
| Tammy Adams Rushing 1993 Saturn Tax Value \$9,680.00 | Route 1, Box 224-S Old Fort, NC | 59.25 |
| Travis Avalon Scott 1994 Honda Accord Tax Value \$13,050.00 | Route 2, Box 492 Nebo, NC | 82.20 |
| Adele McKinney Long 1990 Chevrolet Camaro Tax Value \$6,550.00 | 1333 32nd St., S.W. Hickory, NC | 41.26 |
| Jeffrey Dale Poole 1993 Honda Civic Tax Value \$11,400.00 | 100 Hillview Dr. - #6 Marion, NC | 69.28 |
| Jeffrey Dale Poole 1989 Honda Civic Tax Value \$5,160.00 | 100 Hillview Dr. - #6 Marion, NC | 32.72 |

JOHNSON PRICE & SPRINKLE, PA - CONTRACT TO AUDIT ACCOUNTS: Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, those members of Council present voted to accept the Contract to audit accounts from Johnson, Price and Sprinkle. A copy of the Contract is on file in the City Clerk's Office.

CITY OF MARION ZONING BOARD - APPOINT TWO MEMBERS: The City Manager presented Council with a Memo from Ms. Lovina Smith, Zoning Administrator, requesting that Mr. Miles Brooks be appointed to fill the unexpired term of Mrs. Kathy Koon Rabb, said term ending January 31, 1996, and that Mr. Craig Orange be appointed to fill the unexpired term of Mr. James Lindsey, said term ending January 31, 1997, and that Council appoint two alternate members to the Marion Zoning Board to fill the vacancies created by appointing Mrs. Rabb and Mr. Orange to the Board.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Little, the City Council unanimously voted to appoint Mr. Brooks and Mr. Orange to fill the unexpired terms of Mrs. Kathy Rabb and Mr. James Lindsey as recommended by Ms. Lovina Smith.

Council decided to hold appointment of the two new alternate members until the next regular meeting.

SEWER BLOCKAGE - REQUEST FOR REIMBURSEMENT - MS. BEATRICE ASHE - 503 VIRGINIA AVENUE: The City Manager presented a request to Council from Ms. Beatrice Ashe for reimbursement of \$114.50 for plumbing cost she has paid in regards to a sewer blockage that occurred at 503 Virginia Avenue.

The City Manager advised that, in his opinion, the City is not responsible for the blockage in the sewer line.

The main line was not blocked, only the service line from the residence. Since the service line under the street was not broken or filled with roots, then any blockage in the line had to come from the residence.

A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to deny this request.

REQUEST - NATIONAL GUARD ARMORY - USE OF CITY PROPERTY FOR PARKING: The City Manager presented a letter from Mr. William Dowling of the N. C. National Guard stating that they are interested in using city owned property located just south of Rutherfordton Road for parking and storage of National Guard vehicles.

The City Manager advised Council that the property in question is property purchased by the City from Mr. Amos Fortenbury.

A discussion followed.

The City Manager and Public Works Director advised Council that the property was purchased because of future needs of the City and that equipment and materials were already being moved to the property. They recommended that Council not approve the request.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to deny this request.

REQUEST - TRAFFIC LIGHT - SR ROAD 1819 INTERSECTION OF 226 SOUTH AND UNIVERSAL DRIVE: The following letter was presented to Council for their endorsement:

Dear Mr. Goode:

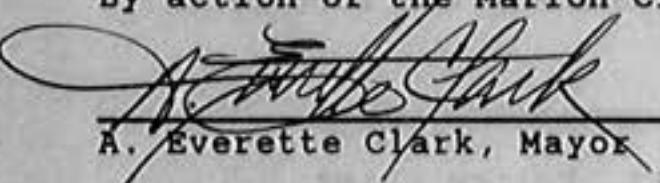
The City of Marion owns property that is accessed on a daily basis from SR 1819 (Universal Drive) in McDowell County. City employees are concerned about the increased traffic flow and other safety factors at the intersection of NC 226 from SR 1819 (Universal Drive).

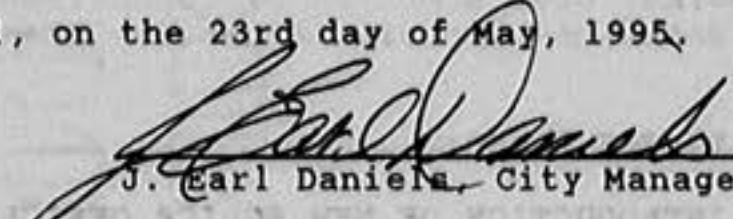
The traffic conditions at the intersection of SR 1819 and NC 226 are very dangerous, especially when making a left turn from SR 1819 onto NC 226. Dangerous conditions have actually intensified at this intersection as a result of the recent addition of a left turn lane on NC 226 South at the I 40 East access ramp just north of the intersection of SR 1819 and NC 226.

All east bound traffic on SR 1819 must either turn right or left at the intersection on NC 226. Major congestion occurs when employees leaving the industrial plants, McDowell Tech NC Forest Service, etc. must wait for traffic to clear on NC 226 before making a left turn.

The Marion City Council formally supports the efforts of McDowell Technical Community College, Georgia Pacific, Universal Furniture, et.al., in their efforts to have a traffic signal installed at the intersection of SR 1819 and NC 226.

By action of the Marion City Council, on the 23rd day of May, 1995.


A. Everette Clark, Mayor


J. Earl Daniels, City Manager

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted to endorse the letter.

The voted was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | Yes |
| Councilman Cross | Yes |
| Councilman Cuthbertson | Yes |
| Councilman Little | Yes |
| | |
| Councilman Edwards | No |

COUNCILMEN COMMENTS: Councilman Edwards advised that someone needed to investigate an over grown lot on Pullium Street and one on South Madison Street. Councilman Edwards also advised that he had received a complaint about a black substance being in the creek, which is located behind his residence, this past weekend.

The City Manager advised that he would investigate the matter and have personnel check on the creek on Saturdays to try and determine what the material is and where it is coming from.

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

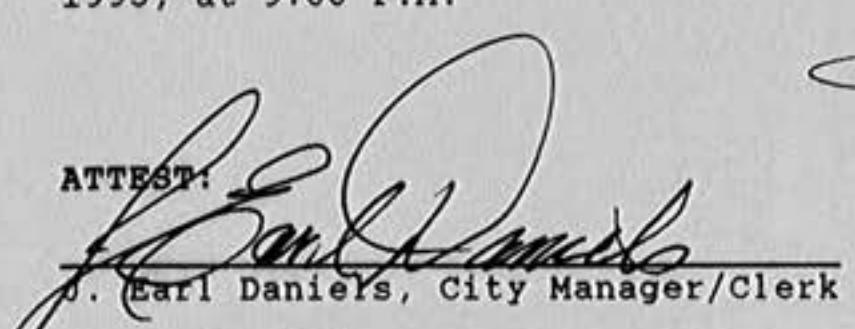
A discussion was held in reference to a legal matter.

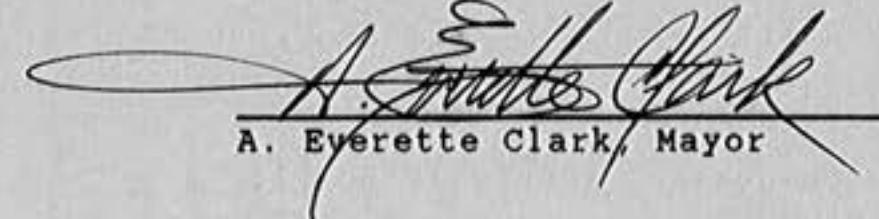
City Attorney Penn Dameron was present for this meeting.

REGULAR SESSION: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to go back into Regular Session.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to adjourn on May 23, 1995, at 9:00 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
 COUNTY OF McDOWELL
 CITY OF MARION

June 6, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 6, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, Mike Edwards and Steve Little.

Mr. Earl Daniels, City Manager, was not present for this meeting due to being out of State on Vacation.

OTHERS PRESENT: Debi Laughridge, Secretary; Ron Evans, Building Inspector; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Tom Pruett, Police Chief; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News, Bonnie Edgar, News Reporter, The Bulletin; Tom Wilson, News Reporter, WDLF; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Bruce Ward, Route 5, Box 717 Marion, N.C. 28752; Dennis Effler, Post Office Box 2391, Marion, N.C. 28752; Scott Spratt, MPD.

APPROVAL OF MINUTES: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve the Minutes of the May 23, 1995 City Council Meeting.

PUBLIC ADDRESS TO THE BOARD:

POLICE CHIEF - INTRODUCTION OF NEW POLICE OFFICE: Tom Pruett, Police Chief, introduced Mr. Scott Spratt to Mayor and Council. He stated that Mr. Spratt came to us from the Town of Old Fort.

REQUEST TO LOCATE SWIMMING POOL OVER CITY WATER AND SEWER LINES - MR. DENNIS EFFLER: Mayor Clark read a letter that was given to him by Mr. Dennis Effler. Mr. Effler is requesting permission from Council to place an above ground swimming pool on his property, located on the corner of Church Street, over City water and Sewer Lines due to various hardships.

A discussion followed.

Council decided to turn this matter over to the Planning Board for further investigation.

CONSENT AGENDA:

VEHICLE TAX REFUNDS: Mayor Clark presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for persons that were billed City of Marion Taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the request for refunds as follows:

| NAME | ADDRESS | AMOUNT |
|--|--|--------|
| Shari Nicole Jackson 1993 Ford Probe Tax Value \$13,040.00 | 99 Lamplighter Lane Marion, NC | 82.13 |
| Paula Suzanne Berry 1985 Nissan Maxima Tax Value \$4,020.00 | Lentz Road Route 6, Box 894 Marion, NC | 25.14 |
| Leisha Marie Hollifield 1987 Pontiac Firebird Tax Value \$3,800.00 | 233 Harmony Grove Road Nebo, NC | 23.09 |
| Jewell Poole Snedeker 1988 Chevrolet Nova Tax Value \$3,160.00 | Route 1, Box 150 | 19.90 |
| Robert Tood Carver 1989 Chevrolet Corisca Tax Value \$4,790.00 | Norwood, NC | 29.53 |

ORDINANCE AMENDMENT - BUILDING CODE: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following amendment to the Building Code:

ORDINANCE
AMENDING THE CODE OF THE CITY OF MARION, NORTH CAROLINA
BUILDING AND BUILDING REGULATIONS

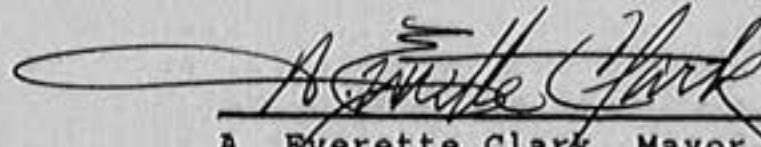
BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:

Section 1. That the following sections of the City Code adopted by the Marion City Council on January 8, 1991 are hereby amended as follows:

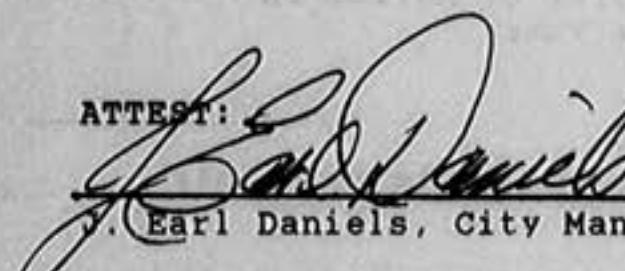
- a. Under Sec. 4-58. Enforcement of zoning ordinance., delete (a) and (b) and insert a new (a) to read as follows: (a) No permit for alteration, repair, or construction of any building or structure shall be issued until a zoning permit has first been issued by the appropriate official charged with enforcement of the zoning ordinance.
- b. Under Sec. 4-82. Limitations on issuance. (a), delete twenty thousand dollars (\$20,000) and insert in lieu thereof, thirty thousand dollars (\$30,000).
Delete the last sentence which reads as follows: "Single family dwellings shall be exempt from this provision."
- c. Under Sec. 4-82. Limitations on issuance. (b), delete twenty thousand dollars (\$20,000) and insert in lieu thereof, ninety thousand dollars (\$90,000).
- d. Under Sec. 4-87. Fees., delete (d) in its entirety and insert in lieu thereof the following:
(d) Plumbing, electrical, mechanical and insulation permit fees shall be as set from time to time by the city council and maintained according to a schedule in the city clerk's office.

Section 2. This Ordinance shall be in full force and effect on July 1, 1995.

Adopted this the 6th day of June, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-06-06-1

REQUEST - NEW MANNA BAPTIST CHURCH - EXTEND NEW STREET: Mr. Bruce Ward, Associate Pastor of New Manna Baptist Church appeared before Council requesting permission to pave a portion of New Street that is currently not paved.

Mr. Ward stated that in their efforts to abide by City regulations, he contacted Mr. Aaron Adams, Street Superintendent, and received the following list of requirements:

A minimum of six (6") inches of ABC sub-base, with a ninety-five (95%) percent compaction, surfaced with two (2") inches of I-2 asphalt. Six (6") inch curbs on each side of the surfaced street with a five (5') shoulder. Any new storm drains or drain pipes shall be the same as existing pipes.
He stated that they are planning to adhere to the above standards, which exceed the current conditions of New Street.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to approve this request.

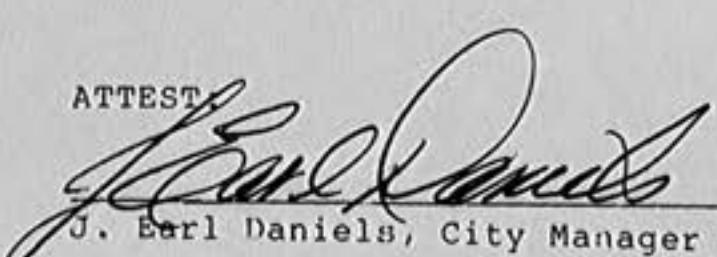
JOINT MEETING, CITY/COUNTY: Mayor Clark advised that Monday June 26, 1995 had been tentatively set for a joint meeting to discuss the Marion Area Fire District Long Term Agreement.

County Commissioners can not meet on this date and suggest the dinner meeting be held on Monday, July 10, 1995.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn on June 6, 1995, at 8:00 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

June 20, 1995

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 20, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross and Steve Little.

Councilman Lloyd Cuthbertson arrived for this meeting at 7:15 P.M.

Councilman Mike Edwards arrived for this meeting at 7:40 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Buck Bryd, Chief Water Filter Plant Operator; Freddie Killough, DBA; Roger Watson, News Reporter, McDowell News; Van McKinney, News Reporter, WBRM; Gene Suppes, News Reporter, The News Bulletin.

GUESTS PRESENT: Danny Bridges, McGill Associates; Lars Balck, The Crom Corporation.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to approve the Minutes of the June 6, 1995 City Council Meeting.

WATER/SEWER PROJECTS - REPORT - MCGILL ASSOCIATES: Mr. Danny Bridges of McGill Associates appeared before Council to give an update on the Clearwell Project and the Reservoir. Neither project has been completed to this date.

Mr. Lars Balck, of Crom Corporation was present for this meeting. The Crom Corporation is the contractor for the Reservoir Project.

The City Council was advised that Crom Corporation had made several attempts to stop the leaks in the reservoir without success. The firm would like to coat the entire interior of the tank with a special coating material to stop all leaks. The company which makes the material provides a ten year warranty on the material. Mr. Balck stated that his Company was willing to give the City of Marion an additional ten year warranty for a total warranty of twenty years.

A discussion followed.

The City Council seemed to agree that the expected life of a concrete reservoir could be as great as fifty years.

Mr. Balck advised that generally firms only provide a one year warranty on structures of this type but that his firm provides a five year warranty, but are willing to provide a twenty year warranty to the City.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept a thirty year warranty.

Mr. Balck advised that he would have to discuss this matter with officials of Crom Corporation.

Mr. Bridges informed Council that repairs had not been made to the Clear Well but were being scheduled.

ARTHUR O'DEAR - REQUEST - SERVICE PISTOL: The City Manager presented Council with a memo from Councilman Mike Edwards requesting, on behalf of former Police Officer Arthur O'Dear, permission for Mr. O'Dear to purchase the pistol which he carried at the time of his retirement from the City of Marion for the sum of one dollar.

Mr. Edwards informed Council that State Law authorizes such purchases by law enforcement officers.

Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to approve this request.

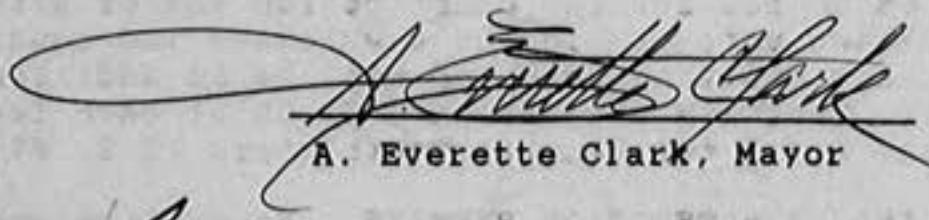
CITY STREET SYSTEM -RESOLUTION - ADDING STREETS: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

CITY OF MARION
R E S O L U T I O N
ADDING STREETS TO CITY STREET SYSTEM

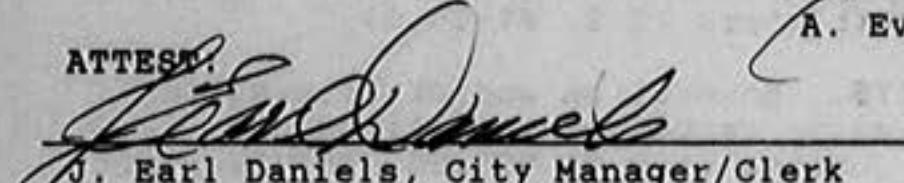
BE IT RESOLVED that the City Council for the City of Marion, North Carolina, hereby asks and petitions that the State Department of Transportation transfer the below listed streets to the City of Marion for maintenance, upkeep and repair:

| SR# | STREET NAME | LENGTH |
|------|---------------|----------|
| 1710 | Circle Street | .15 mile |
| 1713 | First Street | .13 mile |
| 1714 | Second Street | .10 mile |
| 1715 | Third Street | .10 mile |
| 1708 | Fourth Street | .12 mile |
| 1716 | Fifth Street | .10 mile |
| 1717 | Sixth Street | .20 mile |
| 1711 | Cross Street | .05 mile |

Adopted this the 20th day of June 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-06-20-1

CONSENT AGENDA:

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for Ms. Carrisa Burqin who was billed City of Marion Taxes on her vehicle. Ms. Burqin lives and maintains her vehicle outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the request for refund as follows:

| | | |
|-----------------------|------------------------|---------|
| Carrisa Mylynn Burqin | 805 Baldwin Avenue | \$30.55 |
| 1989 Oldsmobile | Marion, North Carolina | |
| Tax Value \$4,920.00 | | |

ROSES DEPARTMENT STORE - TAX ADJUSTMENT: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, advising that on May 29, 1995, a check for \$738.40 was received from Rose's in payment of their 1993 Personal Property Tax. The balance on their account is \$847.55 (Principal \$738.40 + Interest \$108.95.)

When Rose's Stores, Inc. filed bankruptcy, the forms were filled out and returned for their 1993 taxes. A form was received back from Rose's stating the claim was scheduled as "Priority".

Ms. Hill contacted Mr. Penn Dameron, City Attorney and was advised that this was a ruling from the Bankruptcy Court and that the City would have to accept the amount of the check and adjust off the balance of \$108.95.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve this adjustment.

TAX ADJUSTMENTS - 94-95 FISCAL YEAR: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting permission to make adjustments for real and personal properties, including penalties and interest.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve this request as listed below:

| YEAR | REAL PROPERTY | PERSONAL PROPERTY | LATE LIST | INTEREST | TOTAL |
|-------|---------------|-------------------|-----------|----------|----------|
| ==== | ===== | ===== | ==== | ===== | ==== |
| 1985 | 408.02 | 00.00 | 00.00 | 344.76 | 752.78 |
| 1988 | 1,464.97 | 00.00 | 00.00 | 765.63 | 2,230.60 |
| 1990 | 443.21 | 00.00 | 00.00 | 160.26 | 603.47 |
| 1991 | 00.00 | 63.60 | 9.84 | 19.51 | 92.95 |
| 1992 | 00.00 | 57.91 | 00.00 | 12.34 | 70.25 |
| 1993 | 22.72 | 37.95 | 00.00 | 8.81 | 69.48 |
| 1994 | 1,378.80 | 3,792.30 | 52.93 | 27.31 | 5,251.34 |
| TOTAL | 3,717.72 | 3,951.76 | 62.77 | 1,338.62 | 9,070.87 |

ESTABLISHING PERMIT FEES - ORDINANCE: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted to adopt the following Ordinance:

AN ORDINANCE ESTABLISHING PERMIT FEES

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

SECTION 1. BUILDING PERMITS. Building permit fees for all new buildings and additions to existing buildings constructed in the City of Marion will be based on the total number of square feet in the building or addition at the following rates:

| SQUARE FOOT AREA | FEE |
|------------------|----------------------------------|
| Up to 10,000 | \$0.03 per sq. ft. |
| 10,001 to 20,000 | \$300.00 plus \$0.02 per sq. ft. |
| OVER 20,001 | \$500.00 plus \$0.01 per sq. ft. |

MINIMUM PERMIT FEE: \$15.00

Homeowners Recovery Fund: The City shall charge all licensed general contractors a \$5.00 fee for the construction and/or alteration of a single family residential dwelling unit, including townhouses and condominiums. The fee will be collected for each dwelling unit and will be in addition to the City's regular building permit. The City will forward \$4.00 of each fee collected to the North Carolina Licensing Board for General Contractors (G.S. 87-15.6).

SECTION 2. RENOVATION AND/OR ALTERATION PERMITS. Renovation and/or alteration permits will be required for closing in porches or carports, installing or removing structural supports and/or any work costing over \$1,000.00. The fee will be \$1.00 per \$1,000.00 of estimated costs. The minimum permit fee will be \$15.00.

NOTE: See Section 1. Building Permits. Homeowners Recovery Fund.

SECTION 3. SIGN PERMITS. This section will apply to advertising signs and billboards both on-premise and off-premise. The size and location of signs shall be in accordance with City Ordinances. The sign permit fees shall be \$15.00 per sign.

An annual inspection fee will be charged for all off-premise advertising signs. The inspection fee will be \$15.00 per sign.

NOTE: It is the intent of this section to insure the maintenance, replacement or removal of off-premise signs.

SECTION 4. CERTIFICATE OF OCCUPANCY. Certificate of Occupancy fee shall be \$2.00.

SECTION 5. ELECTRICAL INSPECTIONS. Fees for electrical inspections will be as follows:

| TYPE OF INSPECTION | FEE |
|---------------------|--|
| Temporary Service | \$15.00 |
| Rough-In Inspection | \$15.00 |
| Final Inspection | \$15.00, plus \$.25 per receptacle, per switch, per light fixture and per fixed electrical appliance. (See Note) |
| Return Inspections | \$15.00 |

Note: Disconnects in main electrical panels will not be counted as switches; however, remote disconnects will.

SECTION 6. PLUMBING INSPECTIONS. Fees for plumbing inspections will be as follows:

| TYPE OF INSPECTION | FEE |
|---------------------|--|
| Rough-In Inspection | \$15.00 |
| Final Inspection | \$15.00, plus \$1.00 per plumbing fixture. |
| Return Inspections | \$15.00 each |

SECTION 7. MECHANICAL INSPECTIONS. Fees for heating, ventilation and air conditioning inspections will be as follows:

| TYPE OF INSPECTION | FEE |
|---------------------|---|
| Rough-In Inspection | \$15.00 |
| Final Inspection | \$15.00, plus \$1.00 per diffuser and per damper. |
| Return Inspections | \$15.00 each |

SECTION 8. MISCELLANEOUS INSPECTIONS. Fees for miscellaneous inspections will be as follows:

| TYPE OF INSPECTION | FEE |
|--------------------|---------|
| Fuel Storage Tanks | \$15.00 |
| Swimming Pools | \$15.00 |

| | |
|--|---------|
| Locate Mobile Homes or other buildings | \$15.00 |
| Insulation | \$15.00 |
| Demolition | \$15.00 |
| Other Required Inspections | \$15.00 |
| Return Inspections | \$15.00 |

SECTION 9. FEES FOR AMENDMENTS, VARIANCES, APPEALS AND SPECIAL EXCEPTIONS. A fee of \$30.00 will be charged for each application for an amendment, variance, appeal or special exception to the Marion Zoning Ordinance. The fee will cover the necessary administrative costs and advertising.

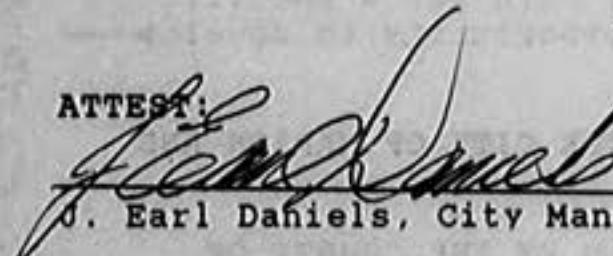
SECTION 10. CONFLICTING ORDINANCES. All ordinances in conflict with this ordinance shall be rescinded upon the effective date of this ordinance.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect at 12:01 A. M. on the first day of July, 1995.

ADOPTED this the 20th day of June, 1995.


A. Everette Clark

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-06-20-01

SEWER USE ORDINANCE: The City Manager advised Council that the proposed new Sewer Use Ordinance had been reviewed by Hydromangement officials and Mr. Charles Burquin, City Attorney.

The City Manager recommended adoption of the ordinance.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the Sewer Use Ordinance, said Ordinance can be found under legal document number 648 in the safe at City Hall.

Ordinance Number: O-95-06-20-02

ENFORCEMENT RESPONSE PLAN: Upon a motion by Council Little, seconded by Councilman Ayers, Council voted unanimously to adopt the Enforcement Response Plan.

A copy of the Enforcement Response Plan can be found under Legal Document Number 648 with the Sewer Use Ordinance.

PROCESS SAFETY MANAGEMENT PROGRAM: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the Process Safety Management program as presented to Council by Tom Milligan, Safety Director.

A copy of the Process Safety Management Program can be found under legal Document Number 646 in the safe at City Hall.

MARION PLANNING BOARD - APPOINT TWO ALTERNATE MEMBERS: It was decided to hold this matter until the next Regular Scheduled Session of City Council.

RECREATION BOARD - TWO APPOINTEES TO THE COUNTY: It was decided to hold this matter until the next Regular Scheduled Session of City Council.

CITY COUNCIL REGULAR JULY SESSIONS - RECOMMEND ONE MEETING -JULY 18, 1995: It was decided to have one Regular Session of City Council during the month of July. The only meeting will be held on July 18, 1995.

BRADFORD PEAR TREES - ON HENDERSON STREET FROM MAIN STREET TO LOGAN STREET - RECOMMEND REMOVAL OF TREES: The City Manager advised Council that the Bradford Pear Trees on Henderson Street were causing some problems and needed to be removed.

A discussion followed.

Council decided to refer this matter to the Tree Committee.

AMENDMENT - CITY/COUNTY - INDUSTRIAL PARK: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

AMENDMENT TO

A RESOLUTION OF COOPERATION BY THE COUNTY OF McDOWELL AND THE CITY OF MARION TO PROVIDE FOR THE EXTENSION OF UTILITY LINES TO THE McDOWELL COUNTY INDUSTRIAL PARK

WHEREAS, the County of McDowell and the City of Marion have adopted a Resolution entitled, A RESOLUTION OF COOPERATION BY THE COUNTY OF McDOWELL AND THE CITY OF MARION TO PROVIDE FOR THE EXTENSION OF UTILITY LINES TO THE McDOWELL COUNTY INDUSTRIAL PARK. The County Commissioners adopted the

Resolution on the 8th day of March, 1995. The City Council adopted the Resolution on the 21st day of February, 1995; and

WHEREAS, the Industrial Park is owned by McDowell County and located outside the City Limits of the City of Marion; and

WHEREAS, the City of Marion has incurred no costs in the development of the Industrial Park; and

WHEREAS, McDowell County has agreed to pay all costs for the extension of water and sewer lines to the park; and

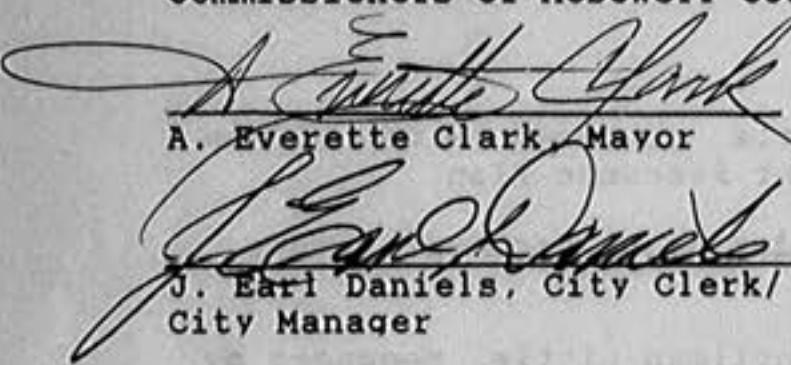
WHEREAS, the City of Marion will receive revenues from the sale of water and the provision of sewer service to industries locating in the Industrial Park, at the same rates charged other similar customers outside the municipal limits; and

WHEREAS, the Industrial Park can be more easily developed if the City of Marion agrees with the County not to annex the industrial park for a specific period of time to allow potential industries the opportunity to develop without having to initially pay City taxes.

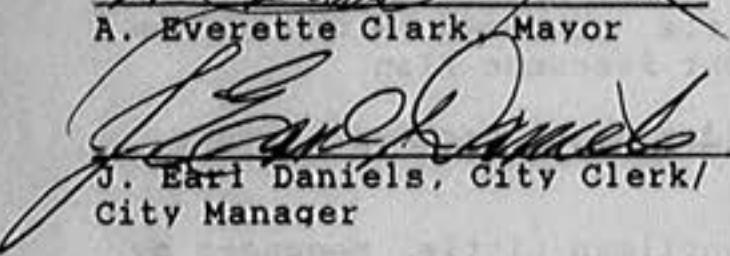
NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARDS OF THE CITY OF MARION AND THE COUNTY OF McDOWELL:

1. That the Resolution entitled A RESOLUTION OF COOPERATION BY THE COUNTY OF McDOWELL AND THE CITY OF MARION TO PROVIDE FOR THE EXTENSION OF UTILITY LINES TO THE McDOWELL COUNTY INDUSTRIAL PARK, adopted on the dates and year stated above is hereby amended by adding a new section 9 to read as follows:
9. The governing Council of the City of Marion hereby expresses its intent not to annex the Industrial Park presently owned by McDowell County, as described in Deed Book 468, Pages 697-701, in the McDowell County Register of Deeds Office, prior to June 30, 2005.

This Resolution is hereby approved by the City Council of Marion and The Board of Commissioners of McDowell County on the dates shown below.


A. Everette Clark, Mayor

Terry L. Smith, Chairman
Board of Commissioners


J. Earl Daniels, City Clerk/
City Manager

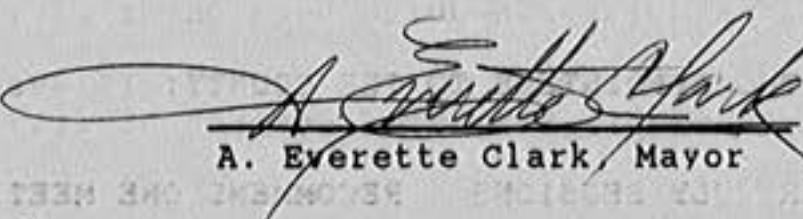
Carrie Padgett, Clerk to the
Board

Date

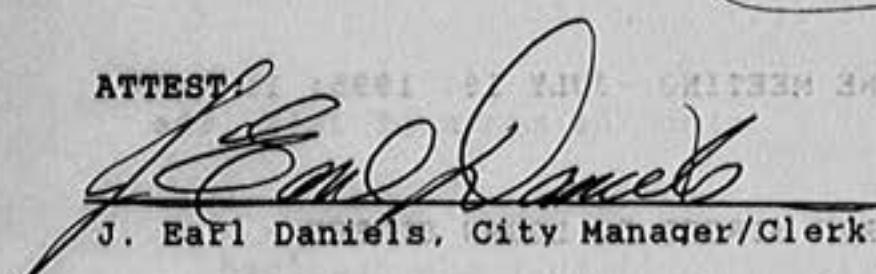
Date

Resolution Number: R-95-06-20-02

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn on June 20, 1995, at 9:15 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Tuesday evening, June 27, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, Mike Edwards and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; LuAnn Ellis, Personnel Director; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Glen Sherlin, Public Works Director; Buck Byrd, Chief Water Filter Plant Operator; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM;

GUESTS PRESENT: Mr. & Mrs. Ralph McCoy, 208 2nd Street, Marion, N.C. 28752, Wayne Sprouse, 313 3rd Street Marion, N.C. 28752, Carl Helms, 111 1st Street, Marion, North Carolina 28752, Cecil Owenby, 9 Vine Street, Marion, North Carolina 28752, Myles Brooks, 550 East Court Street, Marion, North Carolina 28752, Dorothy Moore, 723 Baldwin Avenue, Marion, North Carolina 28752, Mildred Shuford 722 Baldwin Avenue, Marion, North Carolina 28752, Estelle Honeycutt, 710 Baldwin Avenue, Marion, North Carolina 28752, Betty Pearson, 524 5th Street, Clinchfield, North Carolina 28752, Myrtle Freshour, 524 5th Street Clinchfield, North Carolina 28752, Tillie Twitty, 405 Huddins Street, Marion, North Carolina 28752, Mary Witherson 207 Penn Avenue, Marion, North Carolina 28752, Boyd McCoy 206 2nd Street, Marion, North Carolina 28752, Verl Wood 303 3rd Street, Marion, North Carolina 28752, Garland Franklin 234 Spring Street, Marion, North Carolina 28752, Dorothy Baldwin, 108 Glenview Street, Marion North Carolina 28752, Ted Buckner 412 4th Street, Marion, North Carolina 28752, Glensy Gilbert 218 Virginia Road Marion, North Carolina 28752, Ruby Killough, Marion, North Carolina 28752, Harold Sluder, 101 Cardinal Lane, Marion, North Carolina 28752, Jerry Hunter, Route 1, Box 321, Marion, North Carolina 28752, Jim Brown, North Madison Street, Marion, North Carolina 28752, Ronnie Burgin, P. O. Box 1507, Marion, North Carolina 28752, Coy Wilson, 307 3rd Street, Marion, North Carolina 28752, Idana Sluder, Glenwood Avenue, Marion, North Carolina 28752, Charles Hall 603 6th Street Marion, North Carolina 28752, Woody Killough, Main Street, Marion, North Carolina 28752, Randy Williams, 124 North Garden Street, Marion, North Carolina 28752.

1995-96 BUDGET - PUBLIC HEARING: Mayor A. Everette Clark opened the Public Hearing.

Ms. Betty Pearson of 524 5th Street in Clinchfield stated that she did not get one single thing for her City Taxes except for one trash pick-up per week.

The City Manager informed her that in addition to the trash pick-up, she also received a yard waste pick-up, a garbage pick-up, a recycling pick-up and leaves picked-up during the fall, all without any additional charges. He advised that she also received police and fire protection and all other services received by other city residents. He asked that she check to see if she did not save enough funds from her water/sewer bill, when annexed, to off-set the city taxes she has to pay.

Mr. Cecil Owensby of 9 Vine Street requested that absentee voting be allowed during City Elections.

The City Manager stated that he would check with the County Supervisor of Elections and report back to the Board at the next Regular Session of City Council.

Mr. Wayne Sprouse of 313 3rd Street in East Marion requested that a pot hole on 3rd Street be fixed.

The City Manager advised that 3rd Street is still a DOT maintained Street and that DOT, along with Decotech are responsible for patching this pot hole. He informed Mr. Sprouse that he had called the DOT and reported this pot hole. The pot hole was caused by a leaking waterline which belongs to Decotech and not the City.

Mr. Myles Brooks of 550 East Court Street stated that he did not like the way the Police Department is issuing seat belt violations. He feels that they are using entrapment to catch violators.

Ms. Dot Baldwin of 108 Glenview Street stated that she was proud of the attempt being made to catch seat belt violators. She also stated that she would like to see more recycling established in the City of Marion.

BUDGET AMENDMENT: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance Amending the 1994-95 Budget:

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 1994-1995 as adopted by the City Council on the 21st day of June, 1994 is hereby amended as follows:

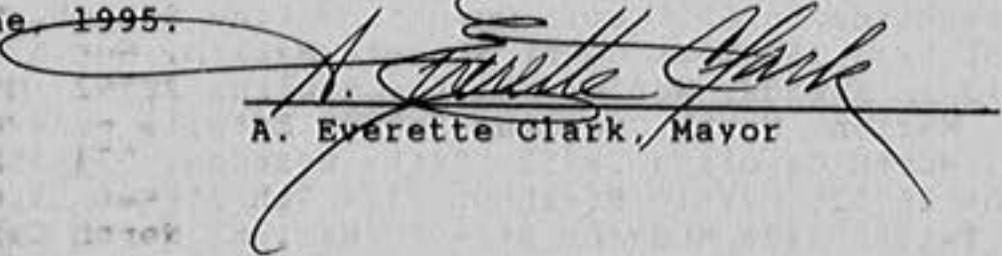
Section 1. General Fund Expenditures, Inspection Department, Account Number 10-500-74 is increased from \$1,500.00 to \$5,500, and increase of \$4,000.

Section 2. General Fund Expenditures, Public Works Administration, Account Number 10-545-74 is increased from \$22,000 to \$30,000, and increase of \$8,000.

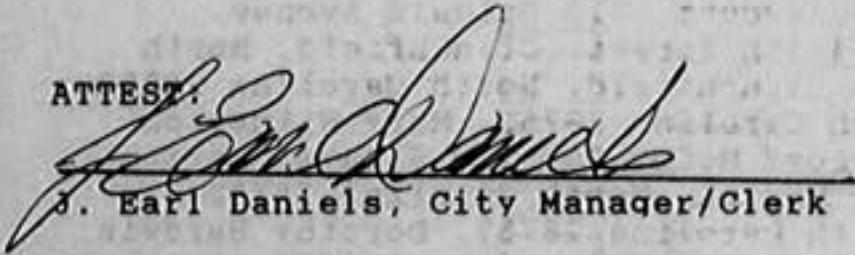
Section 3. General Fund Expenditures, Non Departmental, Account Number 10-660-56 is decreased from \$37,939 to \$25,939 by transferring \$4,000 to Inspection Department, Account Number 10-500-74; and \$8,000 to Public Works Administration, Account Number 10-545-74.

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

ADOPTED this the 27th day of June 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-06-27-1

1995-96 BUDGET ORDINANCE: The City Manager reviewed the budget with Mayor Clark and Council.

Councilman Edwards stated that he thought the raise issue was settled last year, and made a motion to give all City Employees a six hundred dollar raise, with a 2 per cent merit for deserving employees.

This motion died from a lack of a second.

The City Manager advised that during one of the April City Council meetings, he discussed the upcoming raises for City employees. He informed Council that he requested and was given permission to prepare the Budget with a three percent cost of living raise for all employees, with a possible merit increase up to two percent for those earning over twenty thousand dollars in annual salary, and up to four percent for those earning under twenty thousand dollars in annual salary.

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

**BUDGET ORDINANCE
1995-1996**

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, 1995 and ending June 30, 1996 in accordance with the chart of accounts heretofore established by the City:

| | |
|-----------------------------|------------------|
| Administration | \$ 329,100 |
| Purchasing and Warehousing | 63,660 |
| Inspection | 96,300 |
| Police Department | 803,190 |
| Fire Department | 214,900 |
| Public Works Administration | 94,550 |
| Fleet Maintenance | 65,350 |
| Street Department | 673,650 |
| Sanitation | 277,450 |
| Recreation | 51,295 |
| Cemetery | 50,000 |
| Non-Departmental | 306,681 |
| TOTAL | \$ 3,026,126 |

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|-------------------------------|-----------|
| Prior Year's Taxes | \$20,000 |
| Current Taxes | 1,119,643 |
| Inventory Taxes | 187,700 |
| Downtown Dev. Mun. Ser. Dist. | 12,000 |

| | |
|-------------------------------------|---------|
| Tax Penalties & Interest | 10,000 |
| Privilege License Sales | 17,000 |
| Interest Earned | 35,000 |
| Rents and Concessions | 8,000 |
| Misc. Revenues | 6,000 |
| Utilities Franchise Tax | 285,000 |
| Intangibles Tax | 35,358 |
| Beer/Wine Revenue | 18,870 |
| Sales and Use Tax | 420,000 |
| Sales Tax Refund | 45,000 |
| ABC Revenues | 98,000 |
| ABC Officer Revenues | 5,000 |
| Court Costs, Fees & Charges | 3,500 |
| Parking Violations | 500 |
| County Fire Protection | 67,500 |
| Cemetery Revenue | 5,000 |
| DOT Reimbursement - Curb Work | 50,300 |
| Garbage Fees | 73,000 |
| Gas Tax Refunds | 9,000 |
| Zoning Income - Inspection Fees | 15,000 |
| Maint. Traffic Control Devices | 5,000 |
| Cable TV Revenues | 20,000 |
| Sales of Surplus Equipment | 8,000 |
| Contribution from W/S Fund | 100,000 |
| Surplus Appropriated | 318,355 |
| County Contribution - Recycling | 26,400 |
| Sale of Garbage/Leaf/Recycling Bags | 2,000 |

| | |
|-------|--------------|
| TOTAL | \$ 3,026,126 |
|-------|--------------|

Section 3. The following amounts are hereby appropriated in the Powell Bill Fund for Street Maintenance, including curb and gutter work, sidewalk work, storm drainage and other expenses relating thereto for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|-----------------------|----------|
| Professional Services | \$ 2,000 |
| Department Supplies | 25,000 |
| Contracted Services | 123,100 |

| | |
|-------|------------|
| TOTAL | \$ 150,100 |
|-------|------------|

Section 4. It is estimated that the following revenues will be available in the Powell Bill Fund for the fiscal year beginning July 1, 1995 and June 30, 1996:

| | |
|---------------------------|----------|
| Interest Earned | \$ 1,500 |
| Powell Bill Allocation | 141,700 |
| Sales Tax Refund | 1,900 |
| Fund Balance - Prior Year | 5,000 |

| | |
|-------|-----------|
| TOTAL | \$150,100 |
|-------|-----------|

Section 5. The following amounts are hereby appropriated in the Water/Sewer Fund for operation of Water and Sewer Utilities for the fiscal year beginning July 1, 1995 and ending June 30, 1996 in accordance with the accounts heretofore approved for the City:

| | |
|-------------------------|--------------|
| Utility Line Operations | \$ 486,400 |
| Filter Plant | 422,800 |
| Waste Treatment Plant | 531,100 |
| Non-Departmental | 536,585 |
| ----- | |
| TOTAL | \$ 1,976,885 |

Section 6. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|------------------------------|-----------|
| Fund Balance | \$ 41,785 |
| Interest Earned | 1,000 |
| Misc. Income | 5,000 |
| Reimbursement - Septic | 800 |
| Reimbursement - Pretreatment | 25,000 |
| Water Sales | 573,600 |
| Cut on Fees | 35,000 |
| Sewer Service | 516,900 |
| Water Taps | 20,000 |
| Sewer Taps | 25,000 |
| Sales & Use Tax Refund | 200,000 |
| Tank Truck Charges | 400 |
| Water Service Charge | 359,500 |
| Sewer Service Charge | 172,900 |

| | |
|--------------|---------------------|
| TOTAL | \$ 1,976,885 |
|--------------|---------------------|

Section 7. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|----------------------|------------|
| Inventory (Supplies) | \$ 130,000 |
|----------------------|------------|

Section 8. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year July 1, 1995 and ending June 30, 1996:

| | |
|----------------------------|----------|
| Transfer from General Fund | \$ 5,000 |
| Transfer from W/S Fund | 5,000 |
| Purchase by Other Funds | 120,000 |

| | |
|--------------|-------------------|
| TOTAL | \$ 130,000 |
|--------------|-------------------|

Section 9. The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|------------------------------------|------------|
| Reserve for future appropriations: | \$ 405,423 |
|------------------------------------|------------|

Section 10. It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 1995 and ending June 30, 1996:

| | |
|----------------------------|---------|
| Transfer from General Fund | \$ |
| Transfer from W/S Fund | |
| Interest on Investments | 11,042 |
| Fund Balance Appropriated | 394,381 |

| | |
|--------------|-------------------|
| TOTAL | \$ 405,423 |
|--------------|-------------------|

Section 11. There is hereby levied a tax at the rate of fifty five (\$.55) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 1995 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 \$212,053,542 and estimated rate of collection of ninety-six percent (96%). There is also hereby levied a tax at the rate of twelve cents (\$.12) per one hundred dollars (\$100.00) valuation on all commercial taxable property in the Municipal Service District (MSD value \$10,306,410). 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:

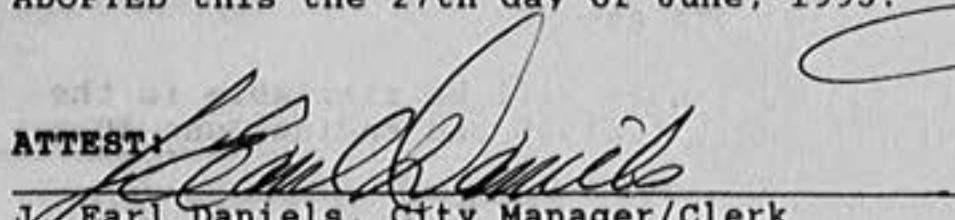
A. He may transfer amounts between objects of expenditure within a department without limitation and without a report being required.

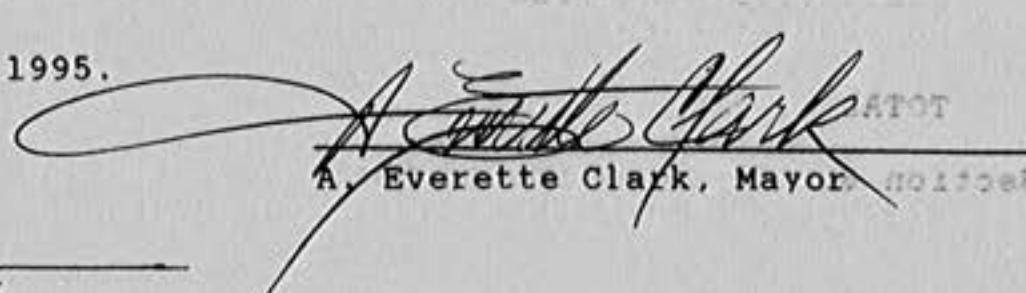
B. He may transfer amounts up to \$1,000.00 between departments of the same fund with an official report on such transfers at the next regular meeting of the City Council.

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, 1995.

ATTEST:

 J. Earl Daniels, City Manager/Clerk


 A. Everette Clark, Mayor

Ordinance Number: O-95-06-27-2

The vote to adopt the above Ordinance was as follows:

| | |
|--------------------------|-----|
| Councilman Ayers - | Yes |
| Councilman Cuthbertson - | Yes |
| Councilman Cross - | Yes |
| Councilman Little - | Yes |

| | |
|----------------------|----|
| Councilman Edwards - | No |
|----------------------|----|

ADJOURNMENT DATE AND TIME: There being no further business, upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn on June 27, 1995, at 10:40 P.M.

A. Everett Clark
A. Everett Clark, Mayor

ATTEST

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, July 18, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everett Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, Mike Edwards and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Glen Sherlin, Public Works Director; Lovina Smith, Zoning Administrator; Roger Watson, News Reporter, The McDowell News; Jim Miller, News Reporter, The Bulletin; Clyde Shaw, WDLF; Van McKinney, News Reporter, WBRM.

GUESTS PRESENT: Alvin Callahan, Buck Creek Road, Marion, N.C. 28752, J. B. Bundy, Pleasant Gardens, N.C. 28752, Mr. And Mrs. Danny Brady, 114 East First Street, Marion, N.C. 28752; W.B. Gibbs, Route 4, Box 320 Marion, N.C. 28752, Cecil Owensby, 9 Vine Street, Marion, N.C. 28752, Jeff Seagle, 112 1st Street, Marion, N.C. 28752, Jason Seagle, 112 1st Street, Marion, N.C. 28752, Gene Griffin, U.S. Army Corps of Engineers, Wilmington, N.C., Don Hansford, FEMA, Atlanta, Georgia, Bobby Willis, U. S. Army Corps of Engineers, Wilmington, N.C.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the Minutes of the June 20, 1995 City Council Meeting.

MR. PETE GIBBS - REQUEST TO USE COMMUNITY BUILDING GROUNDS FOR SPECIAL EVENT: Mr. Gibbs appeared before Council requesting to use the Community Building Grounds for a Special Youth religious event.

A discussion followed.

Council advised Mr. Gibbs that the Community Building Grounds are open to the general public, on a first come first serve basis.

He informed Council that he did not wish to prevent other citizens from using the property and that the event would be open to the public.

Council advised that he did not need to reserve the property under those conditions.

PETITION - REMOVAL OF NO PARKING SIGNS - FIRST STREET: Councilman Mike Edwards presented a petition to the Mayor and Council on behalf of residents of First Street in East Marion. Several of these residents were present for the meeting to complain about the "no parking" signs that were placed in front of their residences. Mr. Jeff Seagle stated that he owned four vehicles and did not have ample room to park them unless he parked them on the street.

The residents present for this meeting requested that the signs be removed to allow parking on the street.

A discussion followed.

Police Chief Tom Pruett stated that his main concern was traffic safety and in his opinion parking should not be permitted where the signs are posted.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to refer the matter to the Street Committee, Chief of Police and City Manager for further investigation.

Council directed that the "no parking" signs be removed until the Street Committee returned with a recommendation.

TILLIE TWITTY - REQUEST TO BLOCK SECTION OF GRAYSON STREET: The City Manager presented a memo addressed to Mayor Clark from Ms. Tillie Twitty requesting that the West Marion Community Watch program be allowed to use the turn-around area on Grayson Street for two hours on the 22nd of July for a program involving the youth in the community.

The Police Chief advised that there would be no problems blocking this section of

the street off for approximately two hours.

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

FLOOD MAPS - ARMY CORP OF ENGINEERS: Mr. Bobby Willis and Mr. Gene Griffin, representatives of the U.S. Army Corp of Engineers and Mr. Don Hansford, Natural Hazards Program Specialist with FEMA appeared before Council regarding the Flood Insurance rate maps for the City of Marion.

They advised that the maps and regulations had changed which would reduce the area which was included in the flood way. This would allow construction of buildings at lower elevations. It was pointed out that the McDowell House was not in the flood area on the new maps.

Some members of Council advised that some of the areas removed from the flood way were just recently flooded and expressed concern on lowering the elevations on building construction.

No action was needed by Council in this matter.

HABITAT PROJECT - GRANT AGREEMENT - CDBG NO. 95-C-0154: The City Manager presented Council with a copy of the North Carolina Department of Commerce Community Development Block Grant Program Grant Agreement. A copy of this Agreement can be found in the legal documents in the safe at City Hall.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve the agreement and to authorize Mayor Clark and/or the City Manager to execute all necessary documents in reference to this grant.

MCDOWELL COUNTY INDUSTRIAL PARK - RESOLUTION - OFFER & ACCEPTANCE FOR A STATE GRANT: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Resolution:

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

WHEREAS, The North Carolina Clean Water Revolving Loan and Grant Act of 1987 and the Education, Clean Water, and Parks Bond Act of 1993 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, water conservation projects, and

WHEREAS, The North Carolina Environmental Management Commission has offered a State Grant in the amount of \$125,400 for the Construction of a Force Main and Pump Station from the McDowell County Industrial Park to the City's Wastewater System and

WHEREAS, The City of Marion intends to construct said project in accordance with the approved plans and specifications.

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

That the City of Marion does hereby accept the State Grant offer of \$125,400.

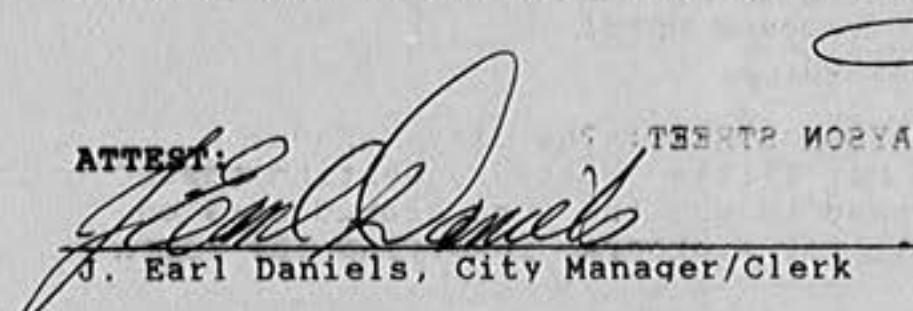
That the City of Marion does hereby give assurance to the North Carolina Environmental Management Commission that all items specified in the Grant Offer, Section II - Assurances will be adhered to, excepting Special Grant Conditions #5 and #6 which have been satisfied.

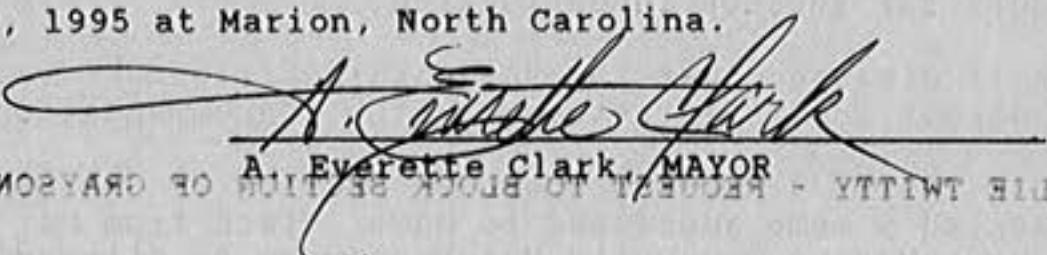
That A. Everette Clark, Mayor, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

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

Adopted this the 18th day of July, 1995 at Marion, North Carolina.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, MAYOR

Resolution Number: R-95-07-18-01

MCDOWELL COUNTY INDUSTRIAL PARK - AGREEMENT FOR ADMINISTRATION SERVICES BY IPDC:
 Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to accept the Agreement for Professional Services between the City of Marion and Isothermal Planning and Development Commission for IPDC to administer all of the grants for the construction of water/sewer utilities to the Industrial Park.

Said Agreement can be found on file in the Zoning Administrators Office at City Hall.

MCDOWELL COUNTY INDUSTRIAL PARK - APPROVAL OF LOW BID - WATER AND SEWER UTILITIES:
 The City Manager informed the Council that the County Commissioners had reviewed the bids and approved the low bid submitted by Buckeye Construction Company.

The City Manager also advised that Mr. Danny Bridges of McGill Associates has reviewed the bid documents and also recommends that Council accept the low bid submitted by Buckeye Construction Company.

Upon a motion by Councilman Ayers, seconded by Councilman Edwards, Council voted unanimously to accept the low bid submitted by Buckeye Construction Company in the amount of \$763,549.00.

The Bid Tabulation was as follows:

**MCDOWELL COUNTY INDUSTRIAL PARK
WATER AND WASTEWATER SYSTEM IMPROVEMENTS**
 Bid Opening - City Hall
 July 11, 1995 - - 2:00 P.M.

| | |
|-------------------------------------|----------------|
| Buckeye Construction Company | \$763,549.00 |
| Terry Brothers Construction Company | \$799,865.00 |
| Stillwell Enterprises, Inc. | \$811,724.00 |
| Gilbert Engineering Company | \$834,144.00 |
| Hobson Construction Company | \$843,535.45 |
| Wells and West, Inc. | \$903,930.70 |
| Crowder Construction Company | \$1,042,700.00 |

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

**STATE OF NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND
325 NORTH SALISBURY STREET
RALEIGH, NC 27603-1385**

ANNUAL CERTIFICATION OF FIREMEN

North Carolina General Statute 58-86-25 requires that all certified fire department's certify a complete roster of its qualified firemen annually to the Firemen's Pension Fund.

REPORT BY FIRE DEPARTMENT CHIEF

I, Thomas S. Milligan, Chief of the City of Marion Fire Department, have determined that the attached roster is a true and accurate list of all eligible firemen within the definition contained in North Carolina General Statute 58-86-25.

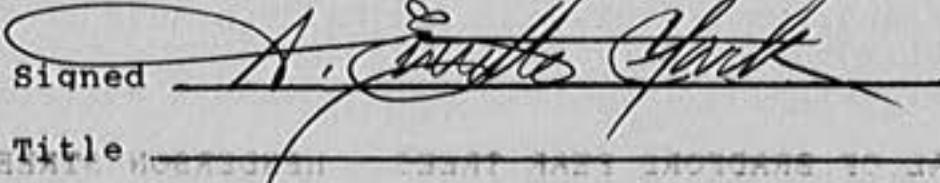
Signed
Fire Chief

Date

CERTIFICATION BY GOVERNING BOARD

We, the Marion City Council in our capacity as the governing body of the City of Marion Fire Department, certify that we have examined and find that the attached roster is a true and accurate list of all eligible firemen of the City of Marion Fire Department, P. O. Drawer 700, Marion N.C. 28752.

County of McDowell, North Carolina

Signed 
 Title: _____
 Date: _____

FIREMEN'S PENSION FUND

MARION FIRE DEPT.
CHIEF THOMAS S. MILLIGAN
P. O. BOX 547
MARION, NC 28752

| CO. | DEPT. | LAST NAME | FIRST NAME | MI | SSN |
|-----|-------|-----------------|------------|----|-----------|
| 58 | 0617 | ANDERSON | DONALD | R | 239807486 |
| 58 | 0617 | CRESON | DURWOOD | R | 244334498 |
| 58 | 0617 | DARK, III | R | M | 242867797 |
| 58 | 0617 | EDWARDS | BRUCE | A | 237560350 |
| 58 | 0617 | HOLLIFIELD | MILLARD | D | 245485402 |
| 58 | 617 | KING | CHARLES | S | 245749646 |
| 58 | 0617 | LAUGHRIDGE, JR. | JAMES | V | 246355503 |
| 58 | 0617 | LAUGHRIDGE, JR. | JOHN | M | 239807405 |
| 58 | 0617 | LAUGHRIDGE, JR. | JOHN | C | 244041898 |
| 58 | 0617 | LAWS | BRYAN | M | 246456035 |
| 58 | 0617 | LAWS | DENNIS | | 237041211 |
| 58 | 0617 | MCCARTHY | ROGER | W | 241887093 |
| 58 | 0617 | MILLIGAN | THOMAS | S | 244681106 |
| 58 | 0617 | MORRIS | JIMMY | W | 245087939 |
| 58 | 0617 | MORROW, III | JOHN | M | 237293604 |
| 58 | 0617 | NANNEY | FREDRICK | C | 242111035 |
| 58 | 0617 | NEAL, III | JAMES | E | 245729325 |
| 58 | 0617 | OWENBY | KEVIN | W | 245278330 |
| 58 | 0617 | POTEAT | JERRY | W | 244663485 |
| 58 | 0617 | POTEAT | KENNETH | W | 240159682 |
| 58 | 0617 | POTEAT | KEVIN | W | 244496470 |
| 58 | 0167 | PRESNELL, JR. | CHARLES | L | 238829830 |
| 58 | 0167 | REESE | JOHN | E | 242827999 |
| 58 | 0167 | SMITH, III | WILLIAM | R | 245445503 |
| 58 | 0167 | STEVENS | JERRY | C | 242728781 |
| 58 | 0167 | STEVENSON | BRIAN | K | 237353738 |
| 58 | 0167 | SUTTLE, JR. | CHARLES | G | 239849781 |
| 58 | 0167 | WILLIS | JAMES | D | 241885758 |
| 58 | 0167 | WILSON | BRYAN | W | 241802625 |
| 58 | 0167 | YOUNG, JR. | WILLIAM | J | 245728996 |

CONSENT AGENDA

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for persons that were billed City of Marion Taxes on their vehicles. All live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve the request for refunds as follows:

ANNUAL CERTIFICATION OF FIREMEN

| NAME | REPORT BY FIRE DEPARTMENT CHIEF | AMOUNT |
|--|----------------------------------|--------|
| VEHICLE | ADDRESS | ===== |
| ===== | ===== | ===== |
| Dennis Wayne Butner 1986 Mazda Tax Value \$4,520.00 | Hwy 126 Nebo, NC | 28.67 |
| Jerry Donald Dobson 1990 Buick Sabra Tax Value \$8,950.00 | 2659 221 South Marion, NC | 54.79 |
| Timothy Brian Hensley 1994 Chevrolet Silverado Tax Value \$16,300.00 | 826 Hill Street Marion, NC | 99.78 |
| James Murdock 1989 Ford Ranger Truck Tax Value \$5,270 | 816 Gilbert Street Marion, NC | 31.79 |
| Christopher Paul Jackson 1993 Plymouth Voyager Tax Value \$14,330.00 | 250 Baldwin Avenue | 88.99 |

REMOVAL OF BRADFORD PEAR TREES - HENDERSON STREET -RECOMMENDATION FROM TREE COMMITTEE RECOMMENDATION: The City Manager presented a memo from Ms. LuAnn Ellis, Personnel Director. Ms. Ellis stated that the Tree Board would like to request that the Bradford Pear Trees located on Henderson Street east of Logan Street be removed.

Representatives from Duke Power and Aplundh Tree Company have indicated that they would remove the trees for the City.

A discussion followed.

Council advised the City Manager that they would prefer that the trees not be removed and asked that he contact Mr. Lawrence Moore, who does landscaping work for the City, to look into trimming the trees.

ZONING BOARD - APPOINT TWO ALTERNATE MEMBERS: Upon a motion by Councilman Cuthbertson, seconded by Councilman Cross, Council voted unanimously to appoint Ms. Donna Hill and Mr. Dean Walker as Alternate Zoning Board Members.

The Zoning Board for the City of Marion will be as follows:

| NAME | EXPIRATION OF TERM |
|--------------------------|--------------------|
| Mr. Fred Moody, Chairman | January 31, 1998 |
| Mr. Craig Orange | January 31, 1997 |
| Ms. Glenys Gilbert | January 31, 1997 |
| Mr. Tom Cline | January 31, 1996 |
| Mr. Miles Brooks | January 31, 1996 |

Alternate Zoning Board Members

| NAME | EXPIRATION OF TERM |
|-----------------|--------------------|
| Ms. Donna Hill | January 31, 1996 |
| Mr. Dean Walker | January 31, 1997 |

RECREATION BOARD - TWO APPOINTEES TO THE COUNTY: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to recommend Mr. Arnold M. White of East Marion to be appointed by the McDowell County Board of Commissioners to the McDowell County Recreation Committee.

The Nominating Committee will have a second recommendation at the next City Council Meeting.

DRUG AND ALCOHOL TESTING PROPOSAL - NTA, INC.: The City Manager informed Council that by January 1, 1996 the City is required to have in place a Drug and Alcohol Program. He provided a proposal from NTA, Inc. (Nationwide Truckers Association) which would comply with all regulations and at a very reasonable cost. The proposal would remove legal liabilities for DOT Substance Abuse testing from the City from random selection to auditing collection site performance. The City Manager advised that the initial annual cost for the program would be approximately \$2,000.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to approve the Standard Drug Screening Contract offered by NTA, Inc.

A copy of the contract is available in the Personnel Administrator's Office.

ABSENTEE BALLOTS: Upon a motion by Councilman Cuthbertson, seconded by Councilman Cross, Council voted unanimously to adopt the following Resolution:

**CITY OF MARION
NORTH CAROLINA**

R E S O L U T I O N

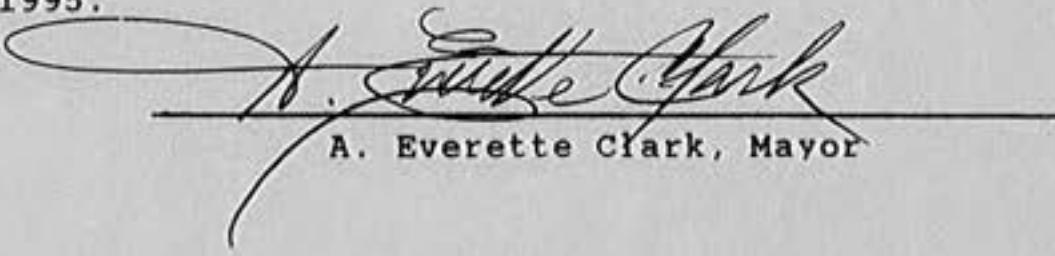
**A RESOLUTION OF THE CITY OF MARION,
McDOWELL COUNTY, NORTH CAROLINA
AUTHORIZING ABSENTEE BALLOTS**

WHEREAS, The City Council of the City of Marion, North Carolina deems it appropriate and beneficial that the citizens of Marion be allowed to cast absentee ballots in any and all municipal elections within the City of Marion; and

WHEREAS, North Carolina General Statute Section 163-302 permits the City Council to authorize such absentee voting in any municipal elections conducted by the McDowell County Board of Elections.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marion shall hereby and hereafter permit absentee voting in any municipal elections in and for the City of Marion, including primary or general elections or referenda conducted by the McDowell County Board of Elections beginning with municipal elections to be held in November, 1995.

ADOPTED this the 18th day of July, 1995.


A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-07-18-2

DISPOSITION OF CITY RECORDS: The City Manager presented a memo from Ms. Lovina Smith, Zoning Administrator, advising that some Municipal records dating from July 1, 1989 to the present date are being stored in the Marion Community Building and that storage space had been exhausted.

The Municipal Records Retention and Disposition Schedule issued by the North Carolina Division of Archives and History authorizes the destruction of receipts and other municipal records dating prior to July 1, 1992.

Ms. Smith is requesting Council's Permission for proper disposal of these City Records.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to authorize the proper destruction of Municipal Records dated prior to July 1, 1992, which are not required for retention by the City.

MARION THOROUGHFARE PLAN: The City Manager presented Council with a draft update to the Marion Thoroughfare Plan. Council noted several needed changes in the document and asked that the City Manager request an extension in time to respond to the draft.

CONSIDERATION ON PURCHASE OF PLATFORM FIRE TRUCK: The City Manager advised Council that an older model refurbished eighty-five foot aerial platform truck has been located.

The City Manager stated that he saw no way for the City to purchase a new Aerial Platform truck, unless on a time payment plan and then only after the Fire Station is paid off.

The City Manager recommend that the Fire Department send one or two qualified Firemen to check the truck out and advise if the City should consider purchasing the truck.

Council approved the City Manager's recommendation and ask for an update at the next City Council Meeting.

DUKE POWER - POWER OUTAGES: Mayor Clark made mention of the condition of trees in the City that are causing power outages and ask that the City Manager write a letter on behalf of the Citizens stating the City's concern.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adjourn on July 18, 1995, at 9:15 P.M.

ATTEST:

J. Earl Daniels, City Manager/Clerk

A. Everett Clark, Mayor

MAY 18 1995

A RESOLUTION OF THE CITY OF MARION
MCDONELL COUNTY, NORTH CAROLINA
AUTHORIZING A REFERENDUM
SALVATION ARMY

WHEREAS

WHEREAS IT IS RECOMMENDED THAT

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, August 8, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Robert Ayers arrived for this meeting at 7:30 P.M. due to orientation with the McDowell County Schools.

Councilman Mike Edwards arrived for this meeting at 7:30 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Glen Sherlin, Public Works Director; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM; Warren Trivett, News Reporter, The Bulletin; Brooks Spaulding, News, Reporter, WDLF.

GUESTS PRESENT: Carl Helms, 111 1st Street, Marion, N.C. 28752; Wayne Sprouse, 313 3rd Street, Marion, N.C. 28752; Cecil Owenby, 9 Vine Street, Marion, N.C. 28752; Danny Castle, Route 1, Box 538, Marion, N.C. 28752; Robbie Waddle, Ashworth Road, Marion, N.C. 28752; Jerry Stevens, 1000 East Union Street, Morganton N.C.; Bill Burgin, 1000 East Union Street, Morganton, N.C.; Estele Miller, 151 Seventh Street, Marion, N.C. 28752; Kevin Owensby, Marion Fire Department; Durwood Creson, Marion Fire Department; Fred Nanney, Marion Fire Department; Charles Presnell, Marion Fire Department; Bill Smith, Marion Fire Department, Mack Laughridge, Marion Fire Department; Jim Neal, Marion Fire Department;

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the minutes of June 27th and July 18, 1995 City Council Meetings.

NEW MANNA CHURCH SCHOOL - GREASE SEPARATOR: The Reverend Danny Castle, of New Manna Church School, appeared before Council requesting to use a smaller grease separator in the kitchen of their new school than is permitted by City Ordinance. City Ordinances require at least a twenty-four gallon - fifty pound grease separator.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cross, those members of Council present voted to allow schools to use a fifteen gallon -thirty pound grease separator by adopting the following Ordinance:

CITY OF MARION
NORTH CAROLINA

ORDINANCE
REQUIRING GREASE TANK OR A GREASE SEPARATOR

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

Section 1. That all restaurants, and other places where food is prepared, excluding residential units, served by the City Sewer System, shall be required to have a grease tank of not less than one thousand (1,000) gallons capacity, which shall be pumped out not less than once every two (2) months or a 25 G.P.M./50 pounds grease separator. Schools generally serving no more than one meal a day may use a 15 G.P.M./30 pounds grease separator.

Section 2. The owner and/or occupant shall be required to keep accurate records on the dates the grease tank is pumped out or the grease separator is serviced.

Section 3. The Public Works Director or his designee shall have the right during regular working hours (8 A.M. to 5 P.M., Monday through Friday) to inspect facilities for compliance with this Ordinance.

Section 4. 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 5. The Ordinance entitled ORDINANCE REQUIRING GREASE TANK adopted by the City Council on September 8, 1992 is hereby rescinded.

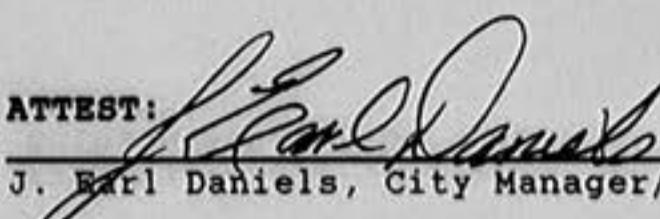
Section 6. This Ordinance shall be in effect upon its adoption.

ADOPTED this the 8th day of August, 1995.



A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-08-08-1

CIVIC CLUBS - REQUEST TO INSTALL SIGNS - COMMUNITY BUILDING AS A PERMANENT SITE:
The City Manager advised that Dr. Bell had asked permission to install a Civic Club sign somewhere on the Community Building Grounds for their club, which meets at the Community Building.

The City Manager advised that there are four Civic Clubs who use the facility and that the City could install poles near Main Street, south of the driveway to the parking lot, to install signs for the four civic clubs which use the building for regular meetings. The signs could be located at the yellow panel boxes next to the wall. In addition, some lattice framing could be installed to hide the panel boxes and make the area more attractive.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request provided the Civic Clubs would provide the signs at no cost to the City.

FOAM AND FABRICS - REQUEST TO REPAIR SIDEWALK: The City Manager advised that the owner of Foam and Fabrics Outlet Inc., is requesting that the City bring the curb and sidewalk repairs on down by his place of business.

The City Manager recommended to Council that this request be considered since the original plan on this project was to stop just past Kelly's Jewelry.

Council approved the extension of the sidewalk and curb replacement to include the area in front of Foam and Fabric Outlet Inc.

ACCIDENT - CITY PROPERTY: The City Manager advised Council that a nine year old girl had fallen off the Merry-Go-Round on the playground at the Community Building on July 19, 1995.

The child fell off the ride and her leg went up under it and was cut at the knee. The cut sustained was reported to be ten inches long and about two inches wide and required stitches according to her Mother.

The child may have to have surgery to completely repair the injury at a later date.

The City Manager advised that the matter has been turned over the City's Insurance Carrier.

FIRST STREET - NO PARKING ZONE - REPORT FROM STREET COMMITTEE: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
NO PARKING ZONES
FIRST STREET, EAST MARION

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

Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| STREET NAME | SEC. CODE | 1982 TYPE | REG. LIMIT | REGULATION APPLICATION |
|----------------|--------------|--------------|---------------|---------------------------|
|----------------|--------------|--------------|---------------|---------------------------|

FIRST
STREET 18-239 101 PARKING PROHIBITED SOUTH SIDE, FROM
RIDGE STREET WEST
73 FEET.

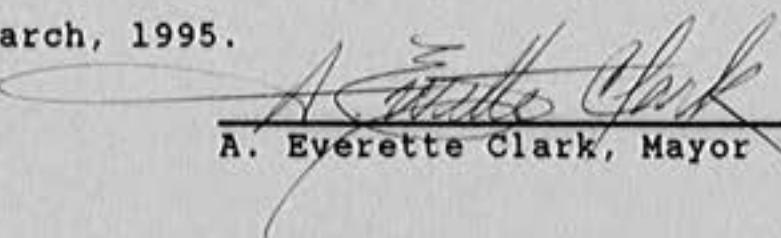
FIRST
STREET 18-239 101 PARKING PROHIBITED SOUTH SIDE, FROM
RIDGE STREET EAST
157 FEET TO THE CITY LIMITS.

Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to

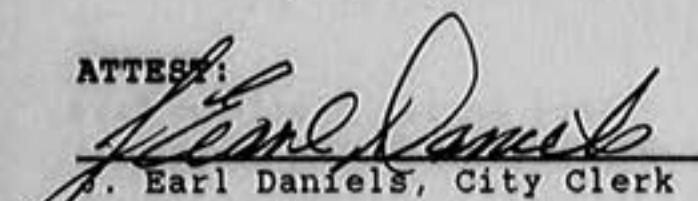
exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 7th day of March, 1995.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Clerk

Ordinance Number: O-95-08-08-2

RESOLUTION - AUTHORIZING PURCHASE OF USED FIRE TRUCK: The City Manager advised Council that a refurbished 85 Foot Sutphen Aerial Platform had been located. The City Manager gave the following information on the truck:

85 Foot Sutphen Aerial Platform.

1983 Detroit diesel 8V-71 engine.

1983 Allison HT-740 Automatic transmission.

1991 Re-built pump 1000 GPM.

1989 Ladder tower assembly refurbished with all current controls, lift cylinders replaced in 1989.

Total miles on the vehicle 28,500.

The original manufacture year was 1969.

Two master stream nozzles at the platform.

Breathing air supplied to the platform.

One (1) 35' Extension ladder.

One (1) 30' Extension ladder.

One (1) 16" Ladder.

Six (6) Various lengths wood handle pike poles.

Upon acceptance of the apparatus the following will transpire:

Complete body and cab paint.

Third party aerial and pump test supplied.

One year \$250.00 deductible warranty that will cover all major components of the apparatus except, tires, belts, batteries or light bulbs.

Delivered to the City by a Sutphen delivery to train the Firemen on the use and maintenance of the apparatus.

The apparatus would be delivered under its own power within 90 to 120 days from acceptance.

A discussion followed.

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

**CITY OF MARION
NORTH CAROLINA
R E S O L U T I O N
A RESOLUTION AUTHORIZING
THE PURCHASE OF A USED AERIAL PLATFORM FIRE TRUCK.**

WHEREAS, The City of Marion Fire Department does not have any aerial fire apparatus, and

WHEREAS, There are a number of structures within the Marion City Limits that are several stories in height, and

WHEREAS, An aerial platform fire truck would provide for better safety for fire fighters and better fire protection for said multi-story buildings, including the ability to transport to safety, in the event of a fire, citizens who may live in homes or apartments having two or more stories, and

WHEREAS, The City has the responsibility to try and provide for the safety of its citizens, and

WHEREAS, The City of Marion is not financially able to purchase a new platform fire truck at this time, and

WHEREAS, A used aerial platform fire truck would be less expensive and provide the same benefits as a new truck, and

WHEREAS, A refurbished 1969 85 foot Sutphen Aerial Platform Fire Truck has been located, which can be purchased for less than one half the cost of a similar new truck, and

WHEREAS, No other dealers have been located that have available a used refurbished aerial platform fire truck, and

WHEREAS, Representatives of the Marion Fire Department have inspected the truck and recommend that the truck be purchased, and

WHEREAS, The Sutphen Corporation has agreed to make certain changes and improvements recommended by the representatives of the Marion Fire Department, including priming and painting the vehicle, and

WHEREAS, The Sutphen Corporation has agreed to provide a full one year warranty similar to a totally new apparatus with a \$250.00 deductible, not including tires, belts, batteries, or lights, and

WHEREAS, There would be little use in advertising for a used aerial platform fire truck, since used vehicles are not likely to meet prepared specifications, and

WHEREAS, No one can determine, in advance, the possibility of a major fire which could threaten life and property, but the City has a responsibility to be as well prepared as possible, and

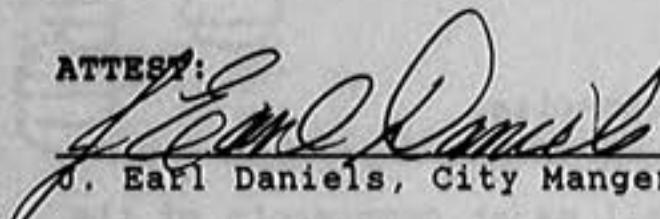
WHEREAS, It is hereby determined by Council that there is an immediate need to acquire this equipment in order to be as well prepared as possible.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the City Manager is authorized and directed to purchase the refurbished 1969 85' Sutphen Aerial Platform Fire Truck in accordance with the proposal submitted, for the total amount of \$206,494.50, with \$51,623.52 to be paid upon signing of the proposal and the remainder of \$154,870.98 to be paid at the time of inspection and acceptance at the Sutphen factory in Amlin, Ohio.

Adopted this the 8th day of August, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-08-08-1

BUDGET AMENDMENT - FIRST - PURCHASE OF USED TRUCK: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
NORTH CAROLINA
1995-96 BUDGET ORDINANCE
AMENDMENT
FIRST

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 1995-96 as adopted by the City Council on the 27th day of June, 1995 is hereby amended as follows:

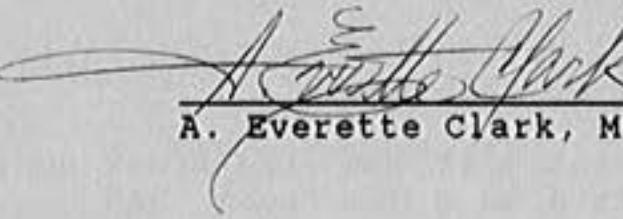
Section 1. General Fund Expenditures, Fire Department, Account Number 10-530-74 is increased from \$4,700 to \$214,700, and increase of \$210,000.

Section 2. General Fund Revenues, Transfer from Capital Reserve, Account Number 10-395-00 is increased from \$0.00 to \$210,000, and increase of \$210,000.

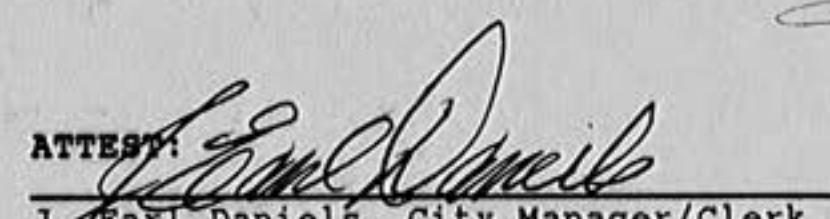
Section 3. Capital Reserve Fund Expenses, Transfer to General Fund, Account Number 75-999-00 is increased from \$0.00 to \$210,000 by transferring \$210,000 to General Fund Revenues, Account Number 10-395-00.

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

ADOPTED this the 8th day of August, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-08-08-3

S.T.A.Y. PROGRAM - REQUEST TO USE THE BASEMENT OF THE COMMUNITY BUILDING AS A PERMANENT SITE: Ms. Sandra Epperson appeared before Council requesting that the S.T.A.Y. Program be allowed to use the Community Building Basement as a permanent site for their program. They are aware that the furnace provides little heat in the basement.

The City Manager advised that no funds had been appropriated to purchase an additional heating system for the basement or to cover additional costs for Oil or Electricity.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve this request on a month to month basis to try and work out any conflicts with other uses of the basement.

ROSE'S STORES, INC. - ACTION OF COMMON STOCK: The City Manager advised that Rose's Store, Inc. had provided the City with seven shares of Common stock for payment of utility bills.

The City Attorney advised that the worth of this stock ranged from \$2.50 per share to \$2.75 per share as of July 17, 1995 and that he would recommend that the City sell this stock.

Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to sell this stock and request City Attorney Charles Burgin contact Joe Davis and ask if he will sell the stock without charging the City a commission.

SUBSTANCE ABUSE POLICY: Upon a motion by Councilman Little, seconded by Councilman Cross, Council voted unanimously to approve the following Policy:

**CITY OF MARION
NORTH CAROLINA
SUBSTANCE ABUSE POLICY**

Policy Statement:

The use, possession, purchase, sale or manufacture of alcohol, illegal drugs or non-prescribed drugs or being under the influence of alcohol, illegal drugs, or non-prescribed drugs while on City property, while operating City vehicles, or while engaging in City business is strictly prohibited.

Scope:

Employees Subject to testing - All applicants for full or part time positions at the City and all full time employees being considered for, or currently performing safety sensitive duties as defined by Title 49, Code of Federal Regulations. This applies to every person who is subject to the commercial driver's license requirements of 49 CFR part 383.

Alcohol - means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

No employee shall report for work or remain at work while having an alcohol concentration of 0.02 or greater.

No employee shall report for work within four hours after using alcohol.

No employee required to take a post accident test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

Controlled substance - The U.S. Department of Transportation (DOT) requires testing for amphetamines, cannabinoids, cocaine, opiates, phencyclidine, and illegal substances or non-prescribed drugs.

No employee shall report for work or remain when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a motor vehicle.

No employee shall report for work or remain on duty, if the employee tests positive for controlled substances.

Prescribed Medications - All employees taking prescribed medications that could impair their ability to safely operate a motor vehicle or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" 49 CFR 395.2, must report this to their immediate supervisor as directed by this policy.

Qualifications for Employment and Prohibited Conduct

Prohibited Conduct - The City prohibits any alcohol misuse and/or drug use that could affect employee performance, including:

Alcohol --

1. Use while at work.

2. Use during 8 hours before reporting for work.
3. Reporting for work or remaining at work with an alcohol concentration of 0.02 or greater.
4. Possession of alcohol, including the possessions of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
5. Use during the 8 hours following an accident, or until he/she undergoes a post accident test.
6. Refusal to take a required test.

DO NOT FORGE TO SIGN

Note: An employee found to have an alcohol concentration of 0.02 or greater shall not be permitted to remain at work.

Controlled Substance --

1. Use of any drug, except by doctor's prescription, and then only if the doctor has advised that the drug will not adversely affect the employee's ability to safely operate equipment.
2. Testing positive for drugs; and
3. Refusing to take a required test.

Consequences and disqualifications

1. The employee shall not work or be permitted to work if any of the above listed prohibitions are violated.
2. Any employee violating these prohibitions will be discharged from employment.

TESTING CIRCUMSTANCES

Pre-employment Testing

All applicants for part-time or full-time positions requiring commercial driver's licence, and all persons transferring to such positions will be directed to submit to an alcohol and Controlled Substance Test.

An alcohol test result must indicate an alcohol concentration of less than 0.02

A drug test will be conducted during the pre employment process and a negative drug test result must be received before a final offer of employment is made.

Post-accident Testing --

If an employee, while operating a City vehicle or equipment, is involved in an accident that involves a fatality, or any accident in which the driver is issued a citation under state or local law for a moving traffic violation arising from the accident, that employee will be required to submit to an Alcohol and a Controlled Substance Test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

The alcohol test must be administered within 2 hours following the accident and in no case shall more than 8 hours elapse before the test is administered. It is the employees responsibility to notify the City immediately to insure actions are taken to meet the testing requirements.

The driver must refrain from using alcohol for 8 hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

The drug test must be administered within 32 hours following the accident. The driver must remain available for testing, or the City will consider the driver to have refused to submit the testing.

Note:

Nothing in this requirement to have commercial drivers license will be subject to random testing for alcohol and controlled substances. random testing will be done on percentage basis in a fair and equal manner.

For alcohol or drug testing an employee may be tested at any time the employee is at work for the City.

Selection of employees for random testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with driver's Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

Each time a random selection is made, every employee will have an equal chance of selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing will proceed immediately to the collection site.

Reasonable Suspicion Testing-

Any employee, while on City property, while operating a City Vehicle, or while engaging in City business, acts in an abnormal manner sufficient to cause reasonable suspicion that he/she will be required to submit to an alcohol and/or a controlled substance test upon the approval and direction of a Marion police Officer.

Return-to-work Testing --

Any employee that, based on the City approval, is allowed to return-to-work following referral, evaluation, and treatment as a result of a positive alcohol or drug test will be required to submit to return-to work alcohol and/or controlled substance test. An alcohol concentration of less than 0.02 and a negative drug test will be required before a return-to-work decision is made.

Follow-up Testing --

In the event an employee is allowed to return-to-work following referral, evaluation, and treatment, a minimum of 6 unannounced alcohol and/or drug test will be required during the next 12 months of employment. Follow up testing may continue for up to 60 months following return-to-work at the City's discretion, based on recommendations from the Substance Abuse Professional.

Alcohol testing and Controlled substance testing may be performed at any time the employee is at work for the City.

ALCOHOL TESTING METHODOLOGY**Breath Alcohol Technician -- (BAT) --**

Alcohol testing will only be performed by a certified Breath Alcohol Technician (BAT) trained and certified in the principles and Evidential Breath Testing Devices (EBT) methodology, operation, and calibration checks; the fundamentals of breath analysis for alcohol content; and the procedures required for obtaining a breath sample, and interpreting and recording EBT results.

Evidential Breath Testing Devices --(EBT) --

Alcohol testing will only be performed using evidential breath testing devices (EBT's) approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing must be either performed by a Certified BAT employed by the City or an outside BAT. All alcohol testing will be conducted in a location that affords visual unauthorized persons will not be permitted access to the testing location when a test is in progress.

Alcohol testing will be performed using only the U.S. Department of Transportation Breath Alcohol Testing Form.

ALCOHOL TESTING PROCEDURES

Using the Evidential Breath Testing Device the certified Breath Alcohol Technician will open an individually sealed mouthpiece forcefully until an adequate amount of breath has been obtained.

The EBT will record the result and display it on the device and print the result immediately. The result will be Recorded on the Breath Testing Form and attached to the form with tamper proof tape.

When the results is less than 0.02, no further testing is authorized and the result will be transmitted to the city in a confidential manner and will be stored to insure confidentiality is maintained.

When the result is 0.02 or greater, a confirmation test must be performed to verify the initial test, the confirmation test will be conducted no less than 15 minutes and no more than 20 minutes after the initial test. In the event the initial and confirmation test result is deemed to be the final result upon which any action under the terms of this policy shall be based.

Following the completion of the test, the BAT will date the form and sign the certification and fill in the date on the form. This insures that each employee is attesting to the fact that the reported result is specific to the employee.

Refusal to test will be treated the same as if the result is 0.02 or greater.

The City will maintain alcohol and drug test results in a secure and confidential manner, so that disclosure of information to unauthorized persons does not occur. Employee information shall only be released as required by law or as expressively authorized.

* An employee shall have access to any of his/her alcohol and drug testing records upon written request.

* The City must allow any DOT authorized agency access to facilities and records in connection with the City's alcohol misuse and drug abuse prevention program.

- * When requested, the City shall disclose post-accident testing information to the National Transportation Safety Board as part of an accident investigation.
- * The City will make records available to a subsequent employer upon request from the employee.
- * The City may disclose information to the employee or to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual. This may include worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the employee.

If an employee attempts but fails to provide an adequate amount of breath the City will be immediately notified and will direct the employee to obtain, as soon as practical, an evaluation from a licensed physician who is acceptable to the City concerning the employee's medical ability to provide adequate amount of breath. If the physician determine that there is a medical reason that prevents the employee from providing an adequate amount of breath, he/she will provide the City with a written statement of the basis for his or her conclusion and it will be regarded as a refusal to take the test. The term of this policy will then be administered.

SPECIMEN COLLECTION PROCEDURES

Specific guidelines will be as followed in urine specimen collections for the purpose of drug testing. In accordance with the Department of Health and Human Services (DHHS) guidelines a clear and well documented procedure for collection, shipment and accession of urine specimen from the City to the laboratory. Procedures will account for the integrity of each urine specimen collection to final disposition of the specimen.

The City may chose to do urine specimen collection in-house or utilize the services of an outside source, which may be a doctor's office, clinic, hospitals or other facility that meets security requirements as specified by DHHS guidelines.

The collection site will be a source location to allow for maximum privacy, which includes a toilet for completion of urination, a source of water for washing hands, and where practicable, excluded from the area provided for urination.

No other person will be present or gain access to the collection area during the collection process. All specimens must remain in the direct control of the collection site person. No one other than the collection site person may handle specimens prior to their being placed securely in the mailing container.

When reporting to a collection site for specimen collection each employee will be required to provide a photo I.D. Employees will be asked to remove all unnecessary outer garments (i.e., coat or jacket), and secure all personal belongings (individuals may retain his/her wallet).

Employees will be allowed to provide his/her specimen in the privacy of a stall.

A split sample method of collection will be used. At least 45 ml of urine must be collected, 30 ml to be used as the primary specimen and 15 ml to be used as the split specimen both samples will be sent to the lab.

Refusal to test will be handled the same as a verified positive result.

In all cases the employee and the collection site person shall keep the specimen in view at all times prior to being sealed and labeled. The specimen will be labeled with tamper proof seals and the employee will sign appropriate places on the Chain of Custody and initial the seal on the bottle attesting the fact the specimen is specific to the individual providing the sample.

TESTING METHODOLOGY

Only laboratories certified by the Department of Health and human services (DHHS) will be used as a drug urinalysis. Every specimen is required to undergo an initial screen followed by confirmation of all positive screen results. This screen confirmation process utilizes highly sophisticated techniques to detect minute levels of prohibited substances in urine.

Reporting of Results

The laboratory is required to report the test results directly to the City's Medical Review Officer (MRO) within 5 working days. The report, shall indicate the drug/metabolites tested for, whether the results are positive or negative, the specimen number assigned by the city and the drug testing laboratory identification number.

Review of Results/MRO

The Medical Review Officer (MRO) is a licensed physician and possesses a knowledge of drug abuse disorders. The MRO may be an employee of the City or one contracted to provide the services required. The MRO will review and interpret positive results obtained from the laboratory. The MRO through a verification process will assess and determine whether alternate medical explanations could account for

positive test results. The MRO may conduct medical history and review any other relevant bio-medical factors. Additionally, the MRO will examine all medical records and data made available by the tested individual, such as evidence of prescribed medications.

The MRO will give the individual testing positive an opportunity to discuss the test results prior to making a final decision is made, the MRO will notify the City as prescribed below.

If during the course of an interview with an employee who has tested positive, the MRO learns of a medical condition which could, in the MRO's reasonable medical judgement, pose a risk to safety, the MRO may report that information to the Department of Transportation (DOT) or to the City.

The MRO will notify each employee who has a confirmed positive test that the employee has 72 hours in which to request a test of the split specimen. If the employee makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to another certified laboratory for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test and report cancellation and the reasons for it to the DOT, the City, and the employee. A request for the testing of a split sample and associated costs are the responsibility of the employee.

If the MRO, after making and documenting all reasonable efforts is unable to contact a designated management official of the City to arrange for the employee to contact the MRO prior to going on duty. Within 5 days after a documented contact by designated management official of the City instructing the employee to contact the MRO, the employee has not done so, the MRO will verify the test positive and report it to the City.

DISCIPLINE AND CONSEQUENCES

Pre-employment/Pre-duty

An applicant for part time, full time or transfer with a verified positive controlled substance test result and/or a verified positive controlled substance test result and/or a confirmed breath test result of 0.02 or greater will be denied employment.

Reasonable Cause

Any employee of the City subject to the terms of this policy, as a result of reasonable cause testing, with a verified positive controlled substance test result and/or an alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Post-accident

Any employee of the City subject to the terms of this policy as a result of post-accident test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Random

Any employee of the City subject to the terms of this policy, as a result of a random test, with a verified positive controlled substance test result and/or a confirmed alcohol test results of 0.02 or greater will be terminated from employment.

Supervisory Training as required by DOT will be provided all supervisors.

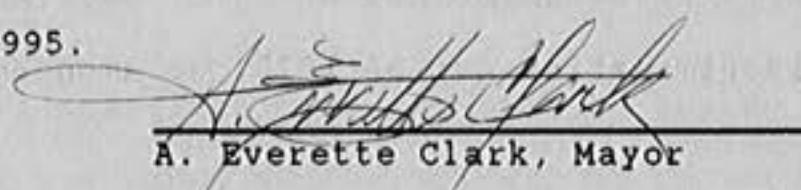
Educational materials as required by DOT will be provided all employees in safety-sensitive positions.

If an Employee should approach the City for assistance through rehabilitation for drug abuse or alcohol abuse or alcohol abuse prior to a testing request by the City, the City will consider a medical leave of absence for treatment.

Under no circumstances will the City pay for any counseling or rehabilitation for drug or alcohol abuse.

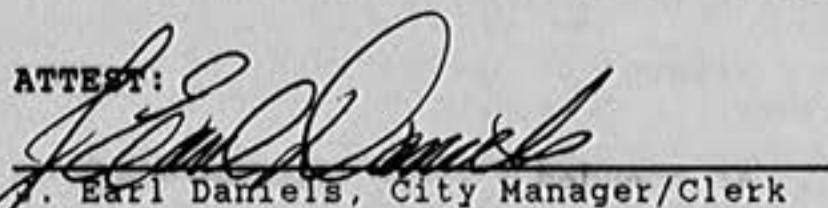
Any questions regarding this policy should be directed to the City of Marion.

Adopted this 8th day of August, 1995.



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

HABITAT PROJECT - CDBG - ADMINISTRATIVE AGREEMENT - LPDC: Upon a motion by

Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the following agreement:

AGREEMENT
BETWEEN ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION
AND THE CITY OF MARION FOR THE
PROVISION OF GRANT MANAGEMENT ASSISTANCE
HOUSING DEVELOPMENT - HABITAT PROJECT
July 1, 1995 - June 30, 1997

This Agreement, made this 1st day of July, 1995 by and between the Isothermal Planning and Development Commission, hereafter called the COMMISSION and the City of Marion, North Carolina, hereafter called the CONTRACTOR.

WHEREAS, the COMMISSION is empowered to provide planning assistance by the N.C. General Statutes. Planning assistance shall consist of the provision of grant management assistance regarding the City of Marion's Housing Development project more fully described on Attachment A to this Agreement; and

WHEREAS, the CONTRACTOR has requested the COMMISSION to provide such grant management assistance to the CONTRACTOR; and

WHEREAS, the COMMISSION desires to cooperate with the CONTRACTOR in every way possible to the end that the proposed activities are carried out in an efficient and professional manner.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

- (1) That during the period of this Contract, the COMMISSION will furnish the necessary trained personnel approved by the CONTRACTOR. The personnel will charge the exact number of hours worked on behalf of the CONTRACTOR on his normal time sheet of the COMMISSION. The CONTRACTOR will reimburse the COMMISSION monthly at a rate per hour for each of the personnel involved, which includes the salary, fringe benefits, travel, and indirect costs. All other costs associated with the administration of the CDBG grant will be expended from the grant administrative allowance budgeted for the CONTRACTOR.
- (2) The CONTRACTOR will pay for expenses related to conferences, conventions, seminars, local travel, etc, of the personnel when the CONTRACTOR requests or approves travel related to the CONTRACTOR'S administration program, or if it is beneficial to both parties, the costs will be shared on an agreed upon ration.
- (3) **Compensation** - The CONTRACTOR will pay the COMMISSION an amount not to exceed \$4,948 (four thousand nine hundred forty-eight dollars) for the satisfactory performance of all services related to the administration of the project as defined in the attached Scope of Services. It is expressly understood that total compensation shall not exceed the maximum sum specified without the prior approval of both agencies.
- (4) **Time of Performance** - The COMMISSION shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning July 1, 1995 - June 30, 1997.
- (5) **Interest of Members, Officers, or Employees of the COMMISSION, Members of the CONTRACTOR, or Other Public Officials** - No member, officer, or employee of the COMMISSION, or its agent; no member, officer, or employee of the COMMISSION, or its agents, no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The COMMISSION shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
- (6) **Nondiscrimination Clause** - No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.
- (7) **Age Discrimination Act of 1975, as amended** - No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.
- (8) **Section 504, Rehabilitation Act of 1973, as amended** - No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any

program or activity which receives or benefits from federal financial assistance.

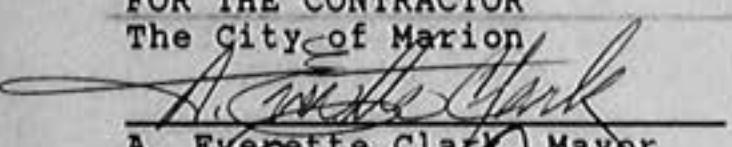
(9) **Access to Records and Record Retainage** - All official project records and documents must be maintained during the operation of this project and for a period of three years following closeout, in compliance with 15 NCAC 13L Rule .0911, Recordkeeping. The N.C. Department of Economic and Community Development, the N.C. Department of the Treasurer, U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the COMMISSION which are pertinent to the execution of this Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions in compliance with 15 NCAC 13L Rule .0911, Recordkeeping.

10) **Termination of Agreement for Cause** - If, through any cause, the COMMISSION shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or violate any of the covenants, conditions, or stipulations of this Agreement, the CONTRACTOR shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared under this Agreement shall, at the option of the CONTRACTOR, become its property, and the COMMISSION shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials in direct proportion to the extent of services actually completed.

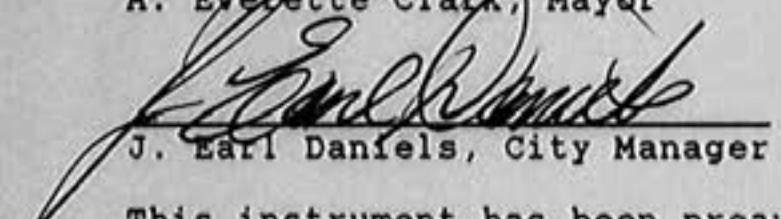
11) **Grantee Assurances** - In the performance of this Agreement, the COMMISSION shall comply with all applicable Federal rules and procedures outlined on the attached pages as E.O. 11246 Clause and the Section 3 Clause (Attachments B and C), and the Lobbying Clause required by Section 1352, Title 31, U.S. Code.

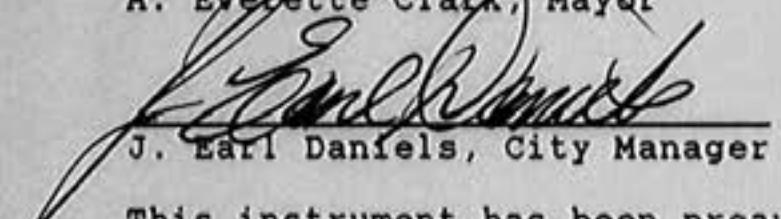
IN WITNESS WHEREOF, the COMMISSION and CONTRACTOR have executed this Agreement as of this the 1st day of July, 1995.

FOR THE CONTRACTOR
The City of Marion


A. Everett Clark, Mayor

FOR THE COMMISSION
IPDC


Executive Director


J. Earl Daniels, City Manager

Community Development Coordinator

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

HABITAT PROJECT - ENGINEERING PROPOSALS: The City Manager presented a letter from Mr. Glen Rhodes, Community Development Coordinator explaining that the Community Development Block Grant regulations require that informal proposals be requested for engineering services.

Proposals were requested from five firms and the response was as follows:

Lapsley and Associates
\$3,000 + \$400 application fee = \$3,400

Mattern and Craig
\$1,900 + \$400 application fee + \$2,300

McGill and Associates
\$5,850 revised to \$2,850

Vaughn and Melton
\$17,000

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the low bid from Mattern and Craig in the amount of \$2,300.

RESOLUTION - BRIDGE INSPECTIONS - DOT: The City Manager advised that by notification from the Department of Transportation certain municipal bridges have to be re-inspected. The City would be billed for 20% of the cost if the Department of Transportation contracts for the inspections.

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

The following resolution was introduced, and Council Member Robert Ayers moved that it be adopted. The motion was seconded by Council Member John Cross, and, upon being put to a vote, the resolution was carried with a four to one vote.

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 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;

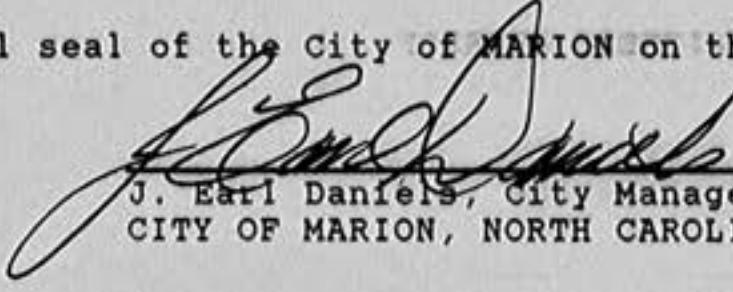
WHEREAS, Under the proposed agreement the City of MARION shall reimburse the Department of Transportation for all costs of the work incurred by the Department of Transportation not paid by the Federal Highway Administration.

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 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 8th day of August, 1995.

I, J. Earl Daniels, City Manager 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 9th day of August, 1995.


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

Resolution Number: R-95-08-08-2

The vote was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | Yes |
| Councilman Cross | Yes |
| Councilman Cuthbertson | Yes |
| Councilman Edwards | Yes |

| | |
|-------------------|----|
| Councilman Little | No |
|-------------------|----|

~~ABOVE ARE APPROVED - J. EARL DANIELS~~

CONSENT AGENDA

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for persons that were billed City of Marion Taxes on their vehicles. Both live and maintain their vehicles outside the City Limits.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve the request for refunds as follows:

| | | |
|-----------------------|----------------|-------|
| Raymond R. Foster | Harrisburg, NC | 86.50 |
| 1991 Oldsmobile 98 | | |
| Tax Value \$14,130.00 | | |

| | | |
|----------------------|------------------|-------|
| Dawn Cody Riddle | Shady Street | 23.79 |
| 1986 Ford Aerostar | Pleasant Gardens | |
| Tax Value \$3,860.00 | | |

CORPENING CREEK WTP - ADDITIONAL MONITORING COSTS: The City Manager presented a letter from Mr. C.D. Malone stating that the monitoring costs for the Corpeneing Creek Waste Water Treatment Plant have increased \$6,020.75 per year.

The City's monthly bill for contracted service with Hydro Management Services, Inc., will be increased \$500.00 monthly.

RECREATION COMMITTEE - RECOMMEND ONE APPOINTMENT TO THE COUNTY BOARD OF COMMISSIONERS: Councilman Edwards advised that a person he felt sure would accept this appointment had not given him a definite answer. He will have a recommendation by the next City Council meeting.

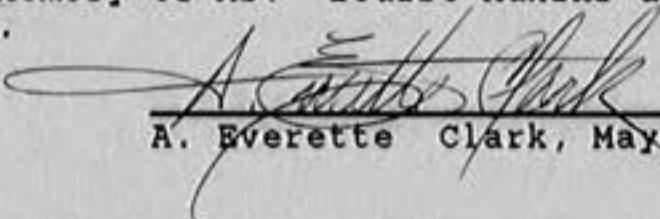
RECYCLING BIN - PROPOSED DEPOSIT: The City Manager advised that bins purchased by the City and provided citizens for the purpose of recycling are being lost, misused and stolen. He recommended establishing a policy to charge a five dollar deposit, which would cover the cost of the container. The deposit would be refunded when the recycling bin is returned.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve this policy as recommended by the City Manager.

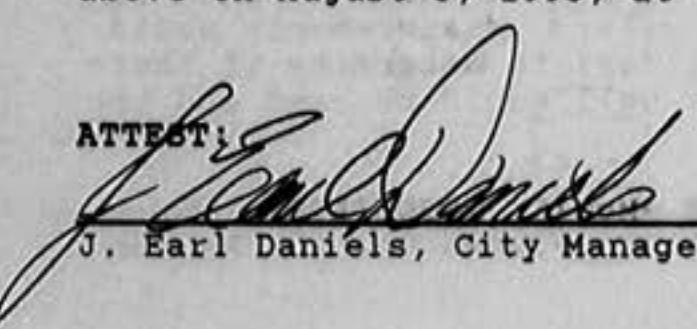
RESERVOIR - STORAGE TANK: Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to accept the proposal submitted by Danny Bridges of McGill Associates on behalf of Crom Corporation. Under the terms of the proposal Crom Corporation would coat the entire inside of the Reservoir and provide a twenty (20) year warranty against leakage of the tank and will share in the cost of any leakage repairs required between the 20th and 25th years on a 50% basis, with the City paying 50% of the costs. In addition, Crom Corporation will provide interval inspections for the interior of the tank at 1 year, 5, 10, 15 and 20 years from the date of acceptance of the tank by the City. The internal inspections will involve representatives from Crom, the City, McGill Associates and CIM (product manufacturer).

ADJOURNMENT DATE AND TIME: Councilman Edwards requested that this adjournment be made in Honor and Memory of Ms. Louise Adkins. (Note: Mrs. Adkins was the mother of former Councilman Larry Brown and was, prior to his death, the wife of Mr. Jack Brown, who served as Public Works Director for the City. Mr. Brown worked for the City for approximately 33 years prior to his retirement.

Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to adjourn in Honor and Memory of Ms. Louise Adkins as requested above on August 8, 1995, at 9:35 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, August 22, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson and Steve Little.

Councilman Mike Edwards arrived for the meeting at 7:20 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Lovina Smith, Zoning Administrator; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Buck Byrd, Chief Operator; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM; Warren Trivett, News Reporter, The Bulletin; Brooks Spaulding, News, Reporter, WDLF.

GUESTS PRESENT: Cecil Owenby, 9 Vine Street, Marion, North Carolina 28752; Leta Hunsinger, North Carolina Department of Transportation Representative; Gary McGill, McGill Associates; Danny Bridges, McGill Associates.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted to approve the minutes of August 8, 1995 City Council Meeting.

RESERVOIR PROJECT - WARRANTY AGREEMENT: Mr. Gary McGill, of McGill Associates, appeared before Council to discuss the Warranty Agreement on the 2.0-MG Water Storage Tank. Mr. McGill advised that it is expected that coating the interior of the tank with either CIM or Themec's Elasto shield will stop the leaking. He also stated that the Crom Corporation would provide a twenty (20) year warranty. After the twenty year period for five additional years any cost to repair the coating would be shared equally by the Crom Corporation and the City of Marion. Joint inspections would be made every five (5) years. In addition within the first year an additional inspection would also be conducted.

Note: Councilman Edwards arrived at the meeting during Mr. McGill's presentation.

Crom Corporation is offering to pay for all water wasted in filling the reservoir for repairs and for all engineering, inspection and other expenses resulting from the attempts to repair the tank, provided, the City will waive charges for

liquidated damages.

A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, Council voted to accept this proposal provided work begins as soon as possible and the tank is repaired.

CLEARWELL PROJECT - FINAL COMPLETION: Mr. Gary McGill, of McGill Associates, attempted to update Council on the Clearwell Project. Mayor Clark advised Mr. McGill that the attempts to repair the leaks in the top of the clear well were not in accordance with the described work he presented to Council. Mr. McGill explained that maybe there was some misunderstanding regarding the matter or that he may have mis-spoke in his presentation.

The clear well was filled with water in December 1993. Cracks were reported in September 1994. The clear well is still leaking and there are still cracks in the top.

The City Manager had informed Mr. McGill that a schedule for completion of the project must be presented and followed or he was going to recommend that the matter be turned over to the City Attorney for legal action to get the matter settled.

Mr. McGill presented a schedule for repairs to the clear well and advised that the work would continue until the repairs are completed. He stated that one side of the clear well would be repaired and then filled with water. Measurements would be made and the tank left with water in it for several days to determine if there are any leaks. Once completed, that side of the clear well could be used and the other side would be tested in the same way.

PRISON PROJECT - WATER/SEWER - CHANGE ORDER NUMBER ONE -MCGILL ASSOCIATES: The City Manager presented a change work order from McGill Associates for the Marion Correctional Institution.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to approve the following changes:

Original contract Price - \$120,500.00

The contract price due to this change will be increased by \$21,020.12

The new Contract price including this change order will be \$141,502.12

The contract time will be increased by sixty-seven (67) calendar days.

The date for completion of all work was June 1, 1995.

PRISON PROJECT - WATER/SEWER - CHANGE ORDER NUMBER TWO -TERRY BROTHERS CONSTRUCTION COMPANY, INC.: The City Manager presented a change work order from Terry Brothers Construction Company, Inc.

A discussion followed:

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve the following changes:

Original Contract Price - \$1,074,250.00

The Contract Price due to this change order will be increased by : \$14,684.64

The new Contract price including this change order will be \$1,088,934.64

The contract time will be increased by sixty-seven (67) calendar days.

The date for completion of all work was July 15, 1994.

MCDOWELL INDUSTRIAL PARK - WATER/SEWER IMPROVEMENTS - CHANGE WORK ORDER: The City Manager presented a change work order from McGill Associates.

A discussion followed.

Contract price prior to this change order - \$763,549.00

Net Increase of this change order - \$9,204.00

Contract price with all approved change orders -\$772,753.00

The Purpose of this change order is to incorporate into Contract, modifications requested by the North Carolina Department of Transportation and Owner, and adjustment of the Contract Amount due to the revisions.

Note: required that force main piping be SDR-21.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve the Change Order.

MARION THOROUGHFARE PLAN - MS. LETA HUNTSINGER: Ms. Leta Huntsinger, Transportation Planning Engineer for the Department of Transportation appeared before Council to discuss the Marion Thoroughfare Plan and to answer any questions Council may have.

A discussion followed.

Council agreed to let the Street Committee study the Thoroughfare Plan and present a Recommendation to the Board at a later date regarding the need to update the Marion Thoroughfare Plan.

CONSENT AGENDA:

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for Mr. and Mrs. Tommy Waldroup of Route 4, Box 1295 in the amount of \$83.59.

The Waldroups live and maintain their vehicle outside the City Limits of Marion.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the request for refunds as follows:

| | | |
|-------------------------------|-------------------|---------|
| Tommy R. & Christina Waldroup | Route 4 Box 1295 | \$83.59 |
| 1992 Pontiac Grand Prix | Old Greenlee Road | |
| Tax Value \$12,320.00 | | |

ACADEMY STREET - REQUEST TO WIDEN STREET: The City Manager presented a letter from Mr. C. R. Laxton, Recreation Director, requesting that City Council consider an alternative to their plan while installing a waterline in the sidewalk area on the west side of Academy Street. Mr. Laxton ask that the curb be removed and relocated making the side more narrow and widening the street. This alternative would provide additional parking for the Recreation Department. Mr. Laxton stated that he had discussed this matter with Mr. Glen Sherlin, Public Works Director; and Mr. Lee Cates, of the County Maintenance Department.

A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to restore the sidewalk on Academy Street in its original position following completion of the waterline installation due to the considerable cost to widen the street.

RESOLUTION - DESIGNATING NATIONS BANK AS DEPOSITORY - HABITAT PROJECT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

123137978
ACCOUNT NUMBER

CITY OF MARION
RESOLUTION
CAPITAL PROJECT - HABITAT - HD

I, the undersigned hereby certify to NationsBank of North Carolina, N.A., that I am the City Manager/Clerk Secretary of The City of Marion a corporation duly organized and existing under the laws of the State of North Carolina; that the following is a true copy of resolutions duly adopted by the Board of Directors of said Corporation at a meeting duly held on the 22nd day of August, 1995, at which a quorum was present; and acted throughout; and that such resolutions are in full force and effect and have not been amended or rescinded.

1. Resolved, that NationsBank of North Carolina, N.A., is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any one (two signatures over \$100.) of the following officers or employees of this Corporation:

| NAME | TITLE |
|----------------------|--------------------|
| Kathryn B. McEntire, | Bookkeeper |
| LuAnn A. Ellis, | Personnel Director |
| J. Earl Daniels, | City Manager |
| A. Everette Clark, | Mayor |

* Note: Board of Directors is the Marion City Council
Secretary is the City Manager/City Clerk

is/are hereby authorized, on behalf of this Corporation, and in its name to sign checks, drafts, notes, bills of exchange, acceptances, certificates of deposit or

other orders for the payment of money; to endorse checks, notes, bills, certificates of deposit, or other instruments, owned or held by this Corporation for deposit with said Bank or for collection or discount by said Bank; to accept drafts, acceptances, and other instruments payable at said Bank; to place orders with said Bank for the purchase and sale of foreign currencies on behalf of this Corporation; to execute and deliver an electronic funds transfer agreement and to appoint and delegate, from time to time, such persons who may request transfers on behalf of the Corporation; to establish and maintain a night deposit relationship; to waive presentment, demand, protest, and notice of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by this Corporation; and

2. **Further Resolved**, that NationsBank of North Carolina, N.A. be and it hereby is authorized to honor, receive, certify, or pay all instruments signed in accordance with foregoing resolution even though drawn or endorsed to the order of any officer or employee signing the same or tendered by him for cashing, or in payment of the individual obligation of such officer or employee, or for deposit to his personal account, and said Bank shall not be required or be under any obligation to inquire as to the circumstances of the issuance or used of any instrument signed in accordance with the foregoing resolution, or the application or disposition of such instrument or the proceeds thereof; and,

3. **Further Resolved**, that NationsBank of North Carolina, N.A. be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in this Corporation's name, including those payable to the individual order of any person or persons whose name or names appear thereon as signer or signers thereof, when bearing or purporting to bear the facsimile signature(s) of the specified number of the foregoing officers or employees of this Corporation and NationsBank of North Carolina, N.A. shall be entitled to honor and to charge this Corporation for such checks, drafts or other orders, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble the facsimile specimen duly certified to or filed with NationsBank of North Carolina, N.A., by the Secretary or Assistant Secretary or other officer of this Corporation; and,

4. **Further Resolved**, that the Secretary or Assistant Secretary of this Corporation shall certify to said Bank the name of the persons who are at present authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the personnel of said officers and employees are made, immediately certify such changes to said Bank, and said Bank shall be fully protected in relying on such certifications of the Secretary or Assistant Secretary and shall be indemnified and saved harmless from any claims, demands, expenses, loss, or damage resulting from, or growing out of, honoring the signature of any officer or employee so certified, or refusing to honor any signature not so certified; and,

5. **Further Resolved**, that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and that receipt of such notice shall not affect any action taken by said Bank prior thereto; and

6. **Further Resolved**, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with NationsBank of North Carolina, N.A. prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and,

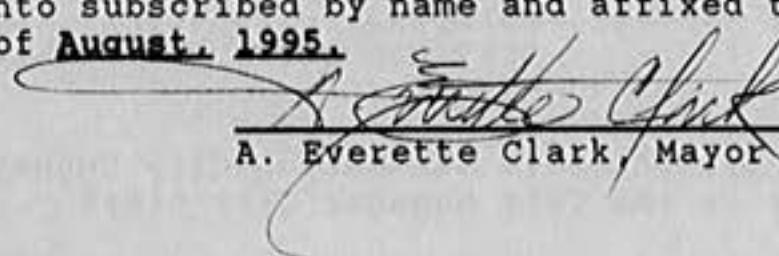
7. **Further Resolved**, that the Secretary or Assistant Secretary be, and he hereby is, authorized and directed to certify these resolutions to NationsBank of North Carolina N.A. and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

I further certify that the following are the names of the present officers of this Corporation:

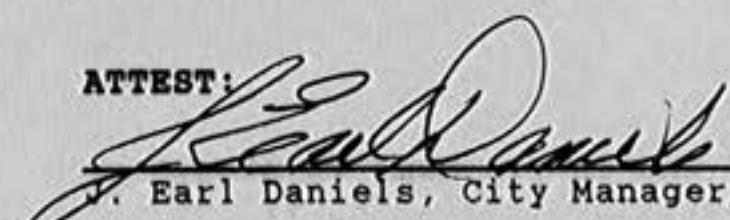
| NAME | TITLE |
|----------------------|--------------------|
| Kathryn B. McEntire, | Bookkeeper |
| LuAnn A. Ellis, | Personnel Director |
| J. Earl Daniels, | City Manager |
| A. Everette Clark, | Mayor |

* Note: Board of Directors is the Marion City Council
Secretary is the City Manager/City Clerk

In Witness Whereof, I have hereunto subscribed by name and affixed the seal of this Corporation, this 25th day of August, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-08-22-1

SOUTH MAIN STREET - PROPOSED 15 MINUTE PARKING ZONES -ORDINANCE: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
15 MINUTE PARKING ZONES
SOUTH MAIN STREET

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

Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| STREET NAME | SEC. 1982 CODE APP. | REG. TYPE | REG. LIMIT | REGULATION APPLICATION |
|-----------------------|------------------------------|--------------|---|--|
| Main, 18-240 South | | Parking | 15 Min. Limit 8 A.M. to 6 P.M. | West side of South Main St. beginning 23' north of the NW corner of W. MON-SAT Henderson St., extending 20 feet in a Northerly direction. |
| Main 18-240 South | | Parking | 15 Min. Limit 8 A.M. to 6 P.M. | West side of South Main St. beginning 25' south of the SW corner of W. MON-SAT Henderson St., extending 18 feet in a Southerly direction. |

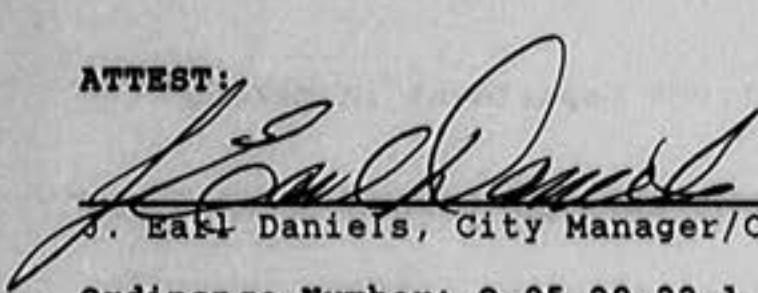
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 22nd day of August, 1995


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-95-08-22-1

The vote was as follows:

| | |
|------------------------|-----|
| Councilman Ayers | Yes |
| Councilman Cross | Yes |
| Councilman Cuthbertson | Yes |
| Councilman Little | Yes |
| Councilman Edwards | No |

SOUTH McDOWELL - PROPOSED NO PARKING ZONE: Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
SOUTH McDOWELL AVENUE

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

Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| STREET NAME | SEC. 1982 CODE APP. | REG. TYPE | REG. LIMIT | REGULATION APPLICATION |
|----------------|------------------------------|--------------|---------------|---------------------------|
|----------------|------------------------------|--------------|---------------|---------------------------|

McDowell 18-240 Parking Prohibited, East side of S.

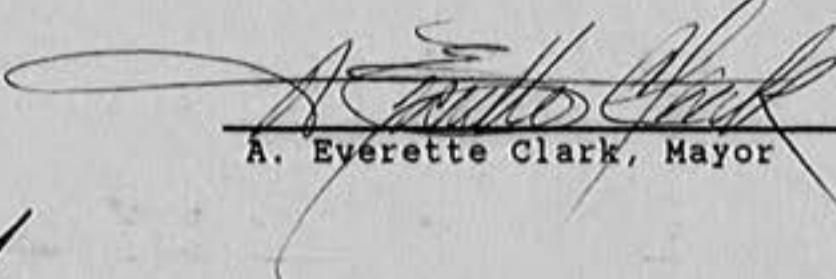
Ave., S.

7 A.M. to McDowell Ave.,
 4 P.M. beginning at the
 MON-FRI SE corner of State St. - extending 276
 feet in a Southerly direction.

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

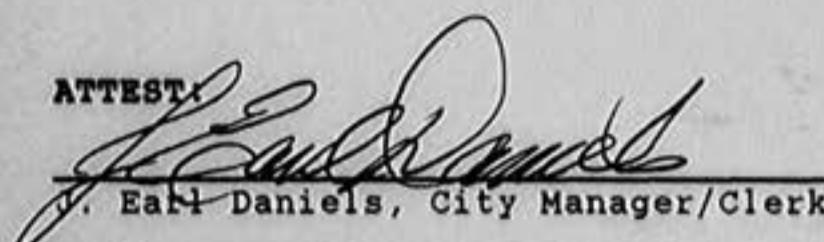
Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 22nd day of August, 1995.



A. Everett Clark, Mayor

ATTEST:



Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-08-22-2

WILHEMENIA STREET - PROPOSED NO PARKING ZONE: The City Manager advised that several residents had requested the City to make a NO PARKING ZONE in front of their residence on Wilhemenia Street.

A discussion followed.

City Council asked that the Chief of Police get a written letter of request from the home owners proposing this request.

GOVERNOR'S HIGHWAY SAFETY INITIATIVE: The City Manager presented Council with a memo from Tom Pruett, Chief of Police, regarding the Governor's Highway Safety Initiative Approach. Chief Pruett explained that each year the Governor's Highway Safety Initiative takes a different approach to public education and enforcement to encourage citizens to comply with highway safety laws.

This year they are offering overtime funding and they are also offering an award of funds to agencies with the most effective traffic safety campaign efforts.

Chief Pruett would like for Mayor Clark to proclaim the week of September 11-17, 1995, as City of Marion Traffic Safety Awareness Week.

Chief Pruett also asked permission to work with the Street Department in making seatbelt safety signs available to local businesses.

The purpose in doing this is to encourage seatbelt usage through a means other than, and in addition to, strict enforcement.

Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve these requests.

Note: Councilman Edwards left the meeting during this discussion. Approximate time 9:50 P.M. He left a note with Secretary Debi Laughridge that he was expecting a phone call at his office at 10:00 P.M.

BEST OF McDOWELL COUNTY-READER SURVEY - THE McDOWELL NEWS: The City Manager advised that The McDowell News held a survey entitled "Best of" McDowell County.

Several persons from various departments in the City were chosen as best Employees and/or Elected Official.

The McDowell news would like the City of Marion to pay for an add in a special edition of the paper honoring these persons.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted not to purchase an add.

PRE-EMPLOYMENT DRUG TESTING - POSITIONS REQUIRING CDL LICENSE: Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted to approve pre-employment drug testing, for positions requiring a CDL Operators Licence. Said policy to be effective immediately.

MARION CORRECTIONAL FACILITY - PRISONERS: The City Manager advised that the Department of Corrections has a program to work inmates who are waiting for parole and are considered no risk prisoners.

These men recently picked up litter along North Main Street.

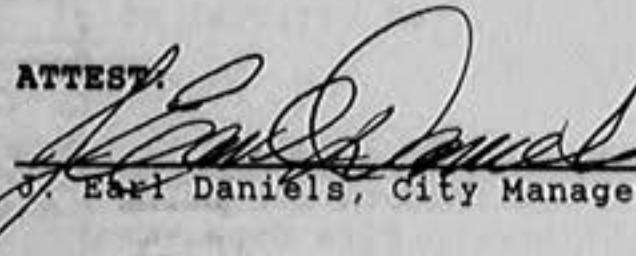
The City Manager recommended that Council give consideration to using the inmates to clean out streams and branches that run through the City, if that is permitted

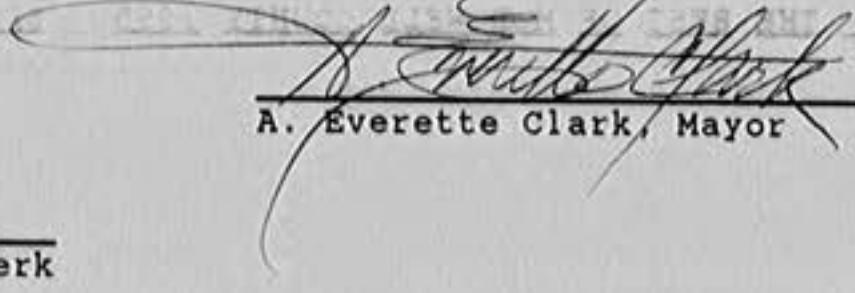
under the program. Most of these streams and branches are not located on City Property and would require permission from the property owners.

Council agreed with the City Manager's recommendation and authorized him to discuss the matter with prison officials and report back.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to adjourn on August 22, 1995, at 10:15 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 5, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, Lloyd Cuthbertson and Steve Little.

Councilmen John Cross and Mike Edwards were absent from this meeting due to vacations.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Charles Presnell, MFD; Debbie Terrell, MPD; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM; Gene Suppes, News Reporter, The Bulletin.

GUESTS PRESENT: Marie Nelson, 150 Lincoln Avenue, Marion, N.C. 28752; Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Bob Ramsey, 125 Real Hollow, Marion, N.C. 28752; Craig Orange, 8 Forest Road, Marion, N.C. 28752; Cecil Owenby, 9 Vine Street, Marion, N.C. 28752; Thomas Harrison, 430 Garden Creek Road, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of August 22, 1995 City Council Meeting.

COMPLAINT - POLICY ON BANNERS PLACED OVER MAIN STREET: Mr. Bob Ramsey appeared before Council to discuss the present policy on banners. Mr. Ramsey felt that City banners take precedence over other requests.

The City Manager advised that the City does not place any banners of its own. However, Christmas Lights and Decorations during the Holiday Season do take precedence over banners.

Mr. Ramsey suggested that the City allow more than one banner to be placed at a time. He suggested installing poles on South Main Street near the Post Office for Banners.

A discussion followed.

It was decided to refer this matter to the Street Committee.

MR. & MRS. MYRON NELSON - SEWER/DRAINAGE PROBLEM: Mrs. Myron Nelson appeared before Council to discuss the sewer and drainage problem she has had at her residence located at 150 Lincoln Avenue, since March 7, 1995. She informed Council that her basement had been flooded several times in recent months during rainy periods. She asked that Council reimburse her for expenses for cleaning and replacement of items damaged as a result of the flooding.

The City Manager advised Council that the Nelson residence was constructed over two city sewer lines long before the Nelsons purchased the residence. He advised that city maps dated 1929 show the sewer line but not the lot on which the residence is constructed. He advised that city forces had been sent to the residence each time they had been called but that since the lines were under the residence there was little that could be done at the time of the flooding. He informed Council that a new sewer line had been installed along the side of the residence in a driveway and the two lines under the residence had been blocked off to prevent future flooding of the basement. He stated that the main lines below this residence were being cleaned to remove sand and gravel which provided a partial blockage of the sewer lines. The City Crews have worked diligently on this sewer system for the past several months and the city has spent approximately \$15,000 on trying to correct the problem.

A discussion followed.

Councilman Little stated that he felt it would be pre-mature to try and settle with Mr. & Mrs. Nelson at this point, until we are sure the problem has been corrected.

Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to table this item until it is certain the problem has been corrected.

CERTIFICATE - THE BEST OF McDOWELL COUNTY 1995 - SPONSORED BY THE McDOWELL NEWS:
Mayor Pro-Tem Ayers presented Mayor A. Everette Clark with a Certificate on behalf of the McDowell News Paper. Mayor Clark was voted Best Elected Official of the City by readers of the McDowell News.

Mayor Clark presented City Manager J. Earl Daniels with a certificate for being voted best City Employee, Captain Charles Presnell, of the Marion Fire Department with best Fireman, and Lieutenant Debbie Terrell, of the Marion Police Department with best Police Officer.

AUCTION CONTRACT - CITY, COUNTY & SCHOOL SYSTEM - NOVEMBER 1, 1995: The City Manager presented Council with a proposed contract from Mr. Gilbert Hollifield requesting that the City participate in the annual auction with the County and School System. The auction will be held November 1, 1995.

The City Manager advised Council that the County, the School System and the City of Marion take turns paying the rent for the McDowell Agriculture Barn in the amount of \$150.00. The City of Marion needs to pay this amount this year.

Upon a motion by Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request and to pay the \$150.00 rent for the Agriculture Barn.

VOTING DELEGATES - ANNUAL CONGRESS OF CITIES - NOVEMBER 29 - DECEMBER 2, 1995:
Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to name Mayor A. Everette Clark as the voting Delegate and Councilman Steve Little as the Alternate voting Delegate for the Annual Congress of Cities Conference to be held in Phoenix, Arizona, November 29th through December 2, 1995.

PROCLAMATION - TRAFFIC SAFETY WEEK - SEPTEMBER 11-17, 1995: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the following Proclamation:

PROCLAMATION

PROCLAIMING SEPTEMBER 11-17, 1995
CITY OF MARION TRAFFIC SAFETY WEEK

WHEREAS: providing for the safety and well being of its citizens is an important role of the City of Marion; and

WHEREAS: vehicular traffic in the City represents a significant safety concern in that traffic collisions are a leading cause of death and/or serious injury to all citizens; and

WHEREAS: citizens who obey traffic safety laws including impaired driving, seatbelt/child restraint usage, and speed laws can substantially reduce the risk of traffic collisions; and

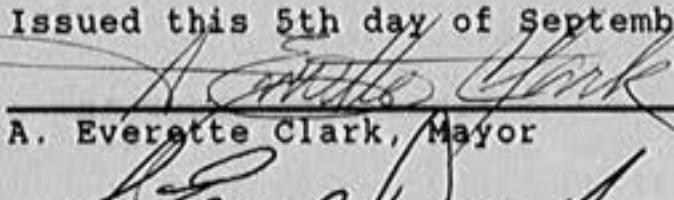
WHEREAS: the Marion Police Department in cooperation with the North Carolina Governor's Highway Safety Initiative, has begun taking extra measures to educate the public and enforce traffic safety laws.

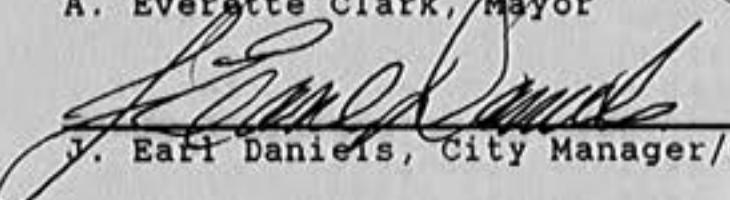
NOW THEREFORE: it is hereby proclaimed by the Mayor and Council of the City of Marion, North Carolina that the week of September 11th through 17th, 1995, is

CITY OF MARION TRAFFIC SAFETY WEEK

AND FURTHERMORE: that all Citizens in the City of Marion, as well as McDowell County, are hereby urged to evaluate their driving habits as they relate to traffic safety and drive responsibly everyday.

Issued this 5th day of September 1995.


A. Everette Clark, Mayor


J. Earl Daniels, City Manager/City Clerk

WEST WILHEMENIA STREET - NO PARKING ZONES ORDINANCE: Councilman Little stated that he was not sure of the exact location of this request for no parking. He also requested that Chief Pruett furnish a sketch of the location.

This request will be held until the next Regular Scheduled Meeting of City Council.

CONSENT AGENDA - VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting a refund for Mr Charles Alan Moffitt in the amount of \$24.09.

Mr. Moffitt lives and maintains his vehicle outside the City Limits of Marion.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the request for refund as follows:

Charles Alan Moffitt Davis Town Road \$24.09
1984 Ford F-250 Truck Old Fort
Tax value \$3,970.00

RESOLUTION - ROSE'S STORES, INC. STOCK: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adopt the following resolution:

CORPORATE ACCOUNT FORM

Gentlemen:

The undersigned Corporation, by its President, pursuant to the resolutions, a copy of which, certified by the secretary, is annexed hereto, hereby authorized you to open an account in the name of said Corporation; and the undersigned also enclosed herewith your Customer's Agreement duly executed on behalf of the Corporation by a written notice, addressed to you and delivered at your office at 201 Progress Parkway, Maryland Heights, MO 63043.

City of Marion by: A. Everette Clark
Corporation Name Mayor - A. Everette Clark

September 5, 1995
Date

As Secretary of said Corporation, I hereby certify that the annexed resolutions were duly adopted at a meeting of the Board of Directors of said Corporation, duly held on the 5th day of September, at which quorum of said Board of Directors was present and acting throughout and that no action has been taken to rescind or amend said resolutions and that the same are now full force and effect.

I further certify that each of the following has been duly elected and is legally holding the office of: (Please type or print officers names below)

Mayor - A. Everette Clark
Treasurer - J. Earl Daniels
Mayor Pro-Tem - Robert Ayers
City Manager/Clerk - J. Earl Daniels

I further certify that the said Corporation is duly organized and existing and has the power to take the action called for by the resolutions annexed hereto.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of the said Corporation this 8th day of September, 1995.

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

HABITAT - GRANT PROJECT ORDINANCE AND AGREEMENT: Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to adopt the following Ordinance and Agreement:

CITY OF MARION

GRANT PROJECT ORDINANCE

BE IT ORDAINED by the Marion City Council, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project is hereby adopted:

Section 1. The project authorized is the Community Development Project described in the work statement contained in the Grant Agreement between this unit and the Division of Community Assistance, North Carolina Department of Commerce.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the Division of Community Assistance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

| | |
|--|-----------------|
| Community Development Block Grant (HD) | \$54,428 |
| TOTAL | \$54,428 |

Section 4. The following amount are appropriated for the project:

McDowell Habitat Project

| | |
|----------------------|-----------------|
| Public Facilities | \$49,480 |
| Administration | 4,948 |
| Total Project | \$54,428 |

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and a federal and state regulations.

Section 6. Requests for funds should be made to the grantor agency in an orderly and timely manner as funds are obligated and expenses incurred.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

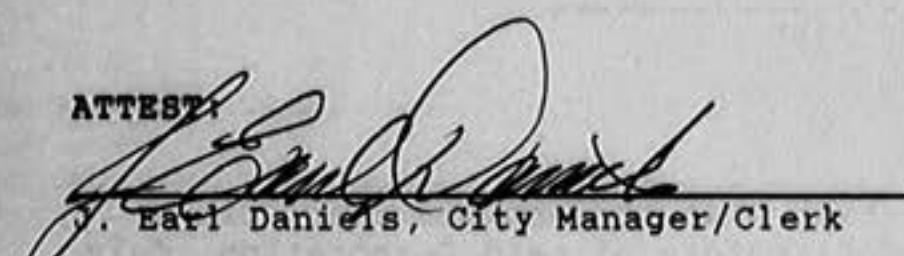
Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this board.

Section 9. Copies of this Grant Project Ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

ADOPTED this 5th day of September, 1995.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: 0-95-09-05-1

DEVELOPMENT AGREEMENT

1995 CDBG--HOUSING DEVELOPMENT PROJECT

CITY OF MARION, NORTH CAROLINA

North Carolina
McDowell County

This agreement is entered into by and between McDowell County Habitat for Humanity, a non-profit, hereinafter referred to as the Developer, and the City of Marion, a municipal corporation located in the State of North Carolina, hereinafter referred to as the City. This agreement will not become effective until all conditions placed upon the City's funding approval are satisfied and funds are released by the North Carolina Department of Commerce.

WHEREAS, the City has received a Community Development Block Grant from the Division of Community Assistance, North Carolina Department of Commerce in the amount of \$54,428 to be used principally to benefit low and moderate income persons by financing water and wastewater system improvements.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises set forth below, the parties to this agreement hereby agree as follows:

ARTICLE ONE

1. The Developer shall execute its responsibilities as identified in the City's CDBG application to the Department of Commerce, (Exhibit A) and shall carry out each activity within the time set forth in the Project Schedule, a copy of which is attached to this agreement as Exhibit A.
2. The Developer further agrees to construct three homes. With prior approval from the Department of Commerce, this commitment may be partially waived by the City if failure to meet the commitment is determined to be due to events beyond the control of the Developer including an unfavorable, unforeseeable occurrence of severe economic conditions and where such waiver will not substantially affect the project as described in the application.

ARTICLE TWO

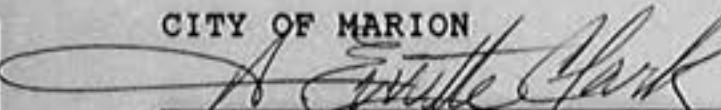
1. The City agrees to execute its responsibilities as defined in the approved grant application (Exhibit A) and within the times set forth in the Project Schedule (Exhibit A).

ARTICLE THREE

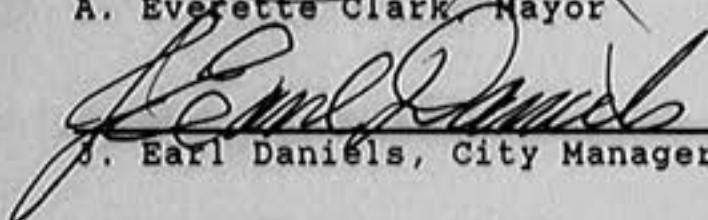
1. Each party shall keep and maintain books, records, and other documents relating directly to the receipt and disbursement of grant funds and the fulfillment of this agreement.
2. Each party agrees that any duly authorized representative of the City, North Carolina Department of Commerce, United States Department of Housing and Urban Development, and Comptroller General of the United States shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all of the books, records, and other documents relating to the grant and the fulfillment of this agreement for a period of three years following the completion of all closeout procedures respecting the Community Development funds, and the final settlement and conclusion of all issues arising out of the Community Development project.
3. Notwithstanding anything herein to the contrary, the parties hereto acknowledge the due execution of the Community Development Block Grant Agreement between the City and the Department of Commerce and agree that any conflict between the provisions, requirements, duties or obligations of this agreement and the Community Development Block Grant Agreement shall be resolved in favor of the Community Development Block Grant Agreement.
4. If at the end of the approved project period the Developer has failed to construct three homes, then the Developer will pay to the City an amount as determined by the Department of Commerce, based on the level of accomplishment and original project goals. In determining the amount due, the Department of Commerce will review actual project accomplishments in comparison to project commitments, ratings criteria (including, but not limited to, CDBG cost per housing unit), CDBG national objectives and regulatory requirements.
5. This development agreement constitutes a legally enforceable contract and shall be governed by and construed in accordance with the laws of the State of North Carolina.

CITY OF MARION

DEVELOPER


A. Everett Clark, Mayor

McDowell County
Habitat for Humanity


J. Earl Daniels, City Manager

Secretary

Date

Date

HABITAT - CITIZEN PARTICIPATION PLAN: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted to approve the following Citizen Participation Plan:

CITY OF MARION CITIZEN PARTICIPATION PLAN

The City of Marion, in compliance with Section 104 (a) (3) of the Housing and Community Development Act of 1987, will follow this citizen participation plan:

- 1) The City will provide citizens with reasonable and timely access to local meetings by advertising in local newspapers. Citizens will also be allowed access to information and records relating to the grantees' proposed use of funds.
- 2) The City will provide technical assistance to groups representative of persons of low and moderate income that request such assistance in developing proposals with the level and type of assistance to be determined by the City.
- 3) The City will, within 10 calendar days of a written complaint or grievance, reply with a written answer.
- 4) In the event of a public hearing in the City where a significant number of non-English speaking residents can be reasonably expected to participate, the City will enlist the aid of a translator from the community or a local community college.
- 5) Will encourage citizen participation in public hearings regarding community development projects, with particular emphasis on participation by persons of low and moderate income who are residents of slum and blight areas, as well as low and moderate income neighborhoods as defined by the local

jurisdiction.

A. Everette Clark, Mayor

Date

TAX REFUND - CHARLES ZIMMERMAN AND JOHN HEILMAN: The City Manager presented a memo from Claudia Hill, Tax Collector; requesting that a refund in the amount of \$100.05 be refunded to Mr. Charles Zimmerman and John Heilman.

Ms. Hill explained that when the 1992 taxes were billed, there was a clerical error for Account 12384 in the name of Mr. Zimmerman and Mr. Heilman.

They purchased property from Faye Brown Wills at 404 State Street (Parcel 24C015006). When the property was transferred, the County transferred the wrong property. They transferred property that was owned by Faye Chambers Willis, therefore two property tax bills went out for the same parcel.

Mr. Zimmerman paid the incorrect of \$100.05 in full December, 1992

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to refund Mr. Zimmerman the amount of \$100.05 as requested by Ms. Claudia Hill, Tax Collector.

AMERICAN RED CROSS - SALUTE: The American Red Cross presented the City of Marion a Certificate of Thanks for donation the Community Building for the McDowell Community Blood Drives. The Certificate read as follows:

American Red Cross

Blood Services Carolinas Region

Salutes

Marion City Hall

for generously donating the Community Building for McDowell Community Blood Drives.

Over one thousand lives were saved with the blood collected during the 1994-95 fiscal year.

On behalf of patients whose lives were saved, thank you.

Lisa Lusk Nona Rhinehard MAJ. MOLTAZIDELAS RAGUTIN - PATISAN
Blood Services Consultant Executive Director

AGENDA - DEADLINE: The City Manager informed Council that he was embarrassed by the information furnished Council in their Agenda packets. He explained that so many items are brought in for the Agenda right up to the time the Agendas are sent out, that there is little time to provide Council with proper explanations on the items. He informed Council that he would like permission to establish a deadline of Wednesday Noon, prior to the Council meeting, to make formal application for a place on the Agenda. He advised Council that persons could still attend the meetings unannounced and ask to speak to Council but that he would not be providing any materials on the matter. Council could take action on the unannounced presentation or table the matter until the next meeting. Council authorized the City Manager to set the deadline.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adjourn on September 5, 1995 at 8:30 P.M.

~~A. Everett Clark, Mayor~~

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 19, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, and Mike Edwards.

Councilman Steve Little called in advance to advise that he would be late for this meeting, due to daughter being in a school function.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM; Brooks Spaulding, News Reporter, WDLF; Warren Trivett, News Reporter, The Bulletin.

GUESTS PRESENT: Woody Killough, Member, Downtown Business Association; Rita Parker, Member, Downtown Business Association; David Wooten, 121 Devonwood Drive, Marion, North Carolina 28752; Robert McKinney, Whispering Pines, Marion, North Carolina 28752; John Reese, North Carolina Forest Service; Brett Moore, Ridgecrest Drive, Marion, North Carolina 28752; Johnny Fender, Professional Video Services, Marion, North Carolina 28752; Bobbie Young, Nova Office Supplies, Marion, North Carolina 28752; Mike and Ellen Ornberg, Creative Framing & Awards, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the Minutes of the September 5, 1995 City Council Meeting.

EXPRESS LUBE - REQUEST TO PLACE CANOPY OVER CITY WATER AND SEWER LINES - ROBERT MCKINNEY: Mr. Robert McKinney, a Representative of the Express Lube, appeared before Council requesting permission to construct a concrete slab and to erect a canopy to cover gas pumps, over a city sewer line located on property owned by Richard A. Gurley.

The City Manager advised that the City controls a perpetual easement twenty feet wide centered on the sewer line.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Edwards, those members of Council present voted to approve this request pending a legal Agreement to be drawn by the City Attorney protecting the City's easement and holding the City harmless from any damages to the structure.

JOHN REESE - TREE BOARD - REQUEST: Mr. John Reese, a Representative of the N.C. Forest Service and a member of the City of Marion Tree Committee; appeared before Council to request City Forces to mow, water new trees and to maintain a grass area at the intersection of the Marion By-Pass and Sugarhill Road, if the Department of Transportation will plant the trees and landscape the area. The area to be mowed and maintained by the city is the area around the trees planted in a line bordering the ramps to the Marion By-Pass and bordering Sugarhill Road and from the trees out to the paved roads.

Mr. Glen Sherlin, Public Works Director; advised that in order for the City to take on this added responsibility, and to do it properly, it would be necessary to add one additional employee during the mowing season at an added annual cost of approximately \$5,460.00.

A discussion followed.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request as recommended by Mr. Reese.

AUCTION - APPROVAL OF SURPLUS EQUIPMENT ITEMS: Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted to approve the following list for the November 2, 1995 Auction:

Inspection: 1 - 1987 Chevrolet Caprice

Police: 1 - 1990 Chevrolet Caprice
1 - 1991 Ford Crown Victoria

Purchasing: 1 - 1979 Chevrolet Impala
Fire: 1 - 1979 Chevrolet El Camino
1 - Magnavox Color T.V.

Street: 1 - 1974 Ford 4410 tractor/Boom type
mowing unit

Water Filter Plant: 1 - 1986 Jeep CJ7
 1 - Yazoo Riding Lawnmower
 2 - 30 H.P. 230 Volt Motors

Sanitation: 2 - 1987 Cushman Vehicles Year

Miscellaneous: 3 - Fuel Pump Dispensers
 2 - Refrigerators
 1 - Water Fountain Refrig Combination
 2 - Computer Monitor
 1 - Computer Keyboard
 2 - Stereo 8 Track Radio Units
 3 - Playground Pony Style Swings
 5 - 4ft. - 4 Bulb Fluor. Light Fixture
 2 - Metal Desk
 1 - Glass Door with metal frame
 1 - 10 ft Artificial Snowman
 10 - Double Drawer Index Card Cabinets

VOTING DELEGATES - 1995 ANNUAL LEAGUE BUSINESS MEETING -DURHAM, NORTH CAROLINA - OCTOBER 15TH - 17TH: Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to name Mayor A. Everette Clark as voting Delegate and Mayor Pro Tem Robert Ayers, as Alternate voting Delegate for the 1995 Annual League Business Meeting in Durham, North Carolina on October 15, 1995.

NO PARKING - WEST WILHEMENIA STREET - ORDINANCE: Upon a motion by Councilman Ayers, seconded by Councilman Edwards, those members of Council present voted to adopt the following Ordinance:

**CITY OF MARION
 TRAFFIC SCHEDULE
 NO PARKING ZONES
 WEST WILHEMENIA STREET**

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

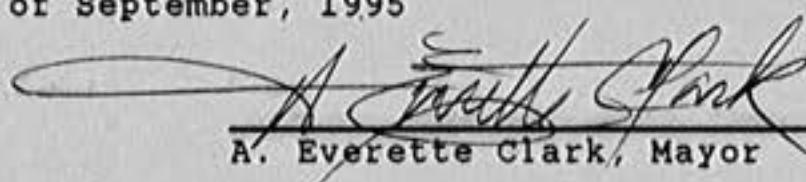
Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

| <u>STREET</u> | <u>SEC.</u> | <u>1982</u> | <u>REG.</u> | <u>REG.</u> | <u>REGULATION</u> |
|----------------|-------------|-------------|-------------|--------------|--|
| <u>NAME</u> | | <u>CODE</u> | <u>TYPE</u> | <u>LIMIT</u> | <u>APPLICATION</u> |
| | | | <u>APP.</u> | | |
| Wilhemenia, W. | 18-239 | 101 | Parking | Prohibited | South side, beginning 69 feet east of the SE corner of Oak St., extending 111 feet in an easterly direction. |
| Wilhemenia, W. | 18-239 | 101 | Parking | Prohibited | North side, beginning at the NW corner of Oak St., extending 230 feet in a westerly direction. |

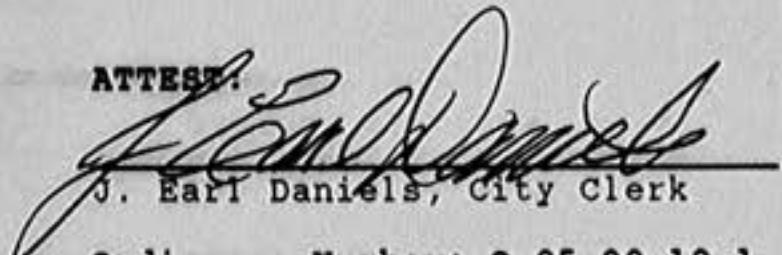
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

Section 3. This Ordinance shall be in full force and effect upon its adoption.

ADOPTED this the 19th day of September, 1995


 A. Everett Clark, Mayor

ATTEST:


 J. Earl Daniels, City Clerk

Ordinance Number: O-95-09-19-1

TAX REFUND - REQUEST - 1% DISCOUNT PAID BY MISTAKE - ANNIE LEE EPLEY: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector; requesting refunds on four accounts submitted by Ms. Annie Lee Epley for the one percent discount for early payment in August on Taxes.

Ms. Epley paid this one percent by mistake. She also paid Mrs. J. F. Snipes taxes, and has power of attorney for that account.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, those members of Council present voted unanimously to approve this refund as follows:

Mr. Ben C. Epley \$4.04

Mrs. J. F. Snipes \$10.17

CONSENT AGENDA:

VEHICLE TAX REFUNDS: The City Manager presented a memo from Ms. Claudia Hill, Tax Collector requesting refunds for persons who live and maintain their vehicles outside the City Limits of Marion.

Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the request for refunds as follows:

| | | |
|----------------------|------------------|-------|
| Dallas Clark | Route 2, Box 796 | 43.63 |
| 1992 Chevrolet | Burnsville, NC | |
| Tax Value \$7,340.00 | | |

| | | |
|------------------------|----------------|-------|
| Martha Ballard Andrews | Old Hwy No. 10 | 69.90 |
| 1993 Ford Thunderbird | Nebo, NC | |
| Tax Value \$11,760.00 | | |

| | | |
|------------------------|---------------|-------|
| Sherman Wesley Davis | Hwy 221 South | 89.10 |
| 1993 Ford Roll Back | Marion, NC | |
| Tax Value \$14, 990.00 | | |

BANNER REQUEST - (RECOMMENDATION FROM STREET COMMITTEE:) The City Manager advised that the Street Committee had discussed the present Banner Policy and recommended to leave the Policy as it is.

MCDOWELL COUNTY - REQUEST TO WAIVE BUILDING INSPECTIONS FEES HEALTH DEPARTMENT: The City Manager presented a letter from Chuck Abernathy, County Manager; requesting the City to waive the building inspection fees for the construction of a Health Department facility on Spaulding Road.

Upon a motion by Councilman Ayers, seconded by Councilman Cross, those members of Council present voted to approve this request.

RESOLUTION - INDUSTRIAL PARK - AUTHORIZATION TO OPEN CHECKING ACCOUNT: Upon a motion by Councilman Cross, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Resolution:

**CITY OF MARION
RESOLUTION
CAPITAL PROJECT - INDUSTRIAL PARK**

I, the undersigned hereby certify to NationsBank of North Carolina, N.A., that I am the City Manager/Clerk Secretary of The City of Marion a corporation duly organized and existing under the laws of the State of North Carolina; that the following is a true copy of resolutions duly adopted by the Board of Directors of said Corporation at a meeting duly held on the 19th day of September, 1995, at which a quorum was present; and acted throughout; and that such resolutions are in full force and effect and have not been amended or rescinded.

1. Resolved, that NationsBank of North Carolina, N.A., is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any one (two signatures over \$100.) of the following officers or employees of this Corporation:

| NAME | TITLE |
|----------------------|--------------------|
| Kathryn B. McEntire, | Bookkeeper |
| LuAnn A. Ellis, | Personnel Director |
| J. Earl Daniels, | City Manager |
| A. Everette Clark, | Mayor |

* Note: Board of Directors is the Marion City Council
Secretary is the City Manager/City Clerk

is/are hereby authorized, on behalf of this Corporation, and in its name to sign checks, drafts, notes, bills of exchange, acceptances, certificates of deposit or other orders for the payment of money; to endorse checks, notes, bills, certificates of deposit, or other instruments, owned or held by this Corporation for deposit with said Bank or for collection or discount by said Bank; to accept drafts, acceptances, and other instruments payable at said Bank; to place orders with said Bank for the purchase and sale of foreign currencies on behalf of this Corporation; to execute and deliver an electronic funds transfer agreement and to appoint and delegate, from time to time, such persons who may request transfers on

behalf of the Corporation; to establish and maintain a night deposit relationship; to waive presentment, demand, protest, and notice of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by this Corporation; and

2. **Further Resolved**, that NationsBank of North Carolina, N.A. be and it hereby is authorized to honor, receive, certify, or pay all instruments signed in accordance with foregoing resolution even though drawn or endorsed to the order of any officer or employee signing the same or tendered by him for cashing, or in payment of the individual obligation of such officer or employee, or for deposit to his personal account, and said Bank shall not be required or be under any obligation to inquire as to the circumstances of the issuance or used of any instrument signed in accordance with the foregoing resolution, or the application or disposition of such instrument or the proceeds thereof; and,

3. **Further Resolved**, that NationsBank of North Carolina, N.A. be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in this Corporation's name, including those payable to the individual order of any person or persons whose name or names appear thereon as signer or signers thereof, when bearing or purporting to bear the facsimile signature(s) of the specified number of the foregoing officers or employees of this Corporation and NationsBank of North Carolina, N.A. shall be entitled to honor and to charge this Corporation for such checks, drafts or other orders, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble the facsimile specimen duly certified to or filed with NationsBank of North Carolina, N.A., by the Secretary or Assistant Secretary or other officer of this Corporation; and,

4. **Further Resolved**, that the Secretary or Assistant Secretary of this Corporation shall certify to said Bank the name of the persons who are at present authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the personnel of said officers and employees are made, immediately certify such changes to said Bank, and said Bank shall be fully protected in relying on such certifications of the Secretary or Assistant Secretary and shall be indemnified and saved harmless from any claims, demands, expenses, loss, or damage resulting from, or growing out of, honoring the signature of any officer or employee so certified, or refusing to honor any signature not so certified; and,

5. **Further Resolved**, that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and that receipt of such notice shall not affect any action taken by said Bank prior thereto; and

6. **Further Resolved**, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with NationsBank of North Carolina, N.A. prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and,

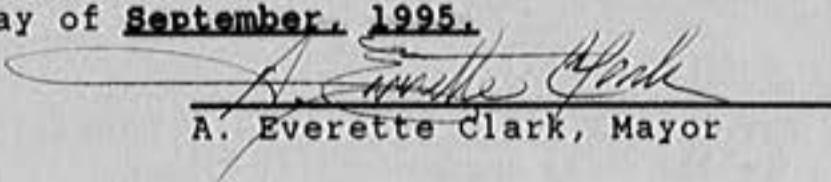
7. **Further Resolved**, that the Secretary or Assistant Secretary be, and he hereby is, authorized and directed to certify these resolutions to NationsBank of North Carolina N.A. and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

I further certify that the following are the names of the present officers of this Corporation:

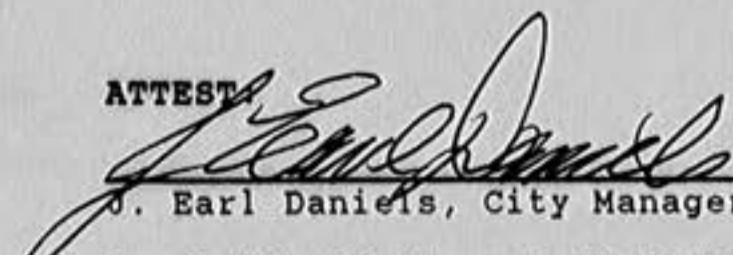
| NAME | TITLE |
|----------------------|--------------------|
| Kathryn B. McEntire, | Bookkeeper |
| LuAnn A. Ellis, | Personnel Director |
| J. Earl Daniels, | City Manager |
| A. Everette Clark, | Mayor |

* Note: Board of Directors is the Marion City Council
Secretary is the City Manager/City Clerk

In Witness Whereof, I have hereunto subscribed by name and affixed the seal of this Corporation, this 19th day of September, 1995.


A. Everette Clark, Mayor

ATTEST:

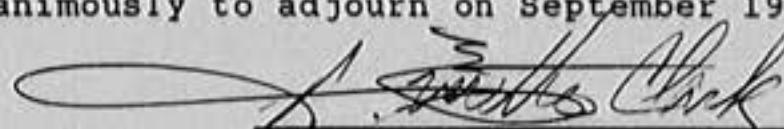

J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-09-19-1

Note: Councilman Little arrived for the meeting at 8:00 P.M. during the beginning of the Joint meeting with the Downtown Business Association and Downtown Business Owners.

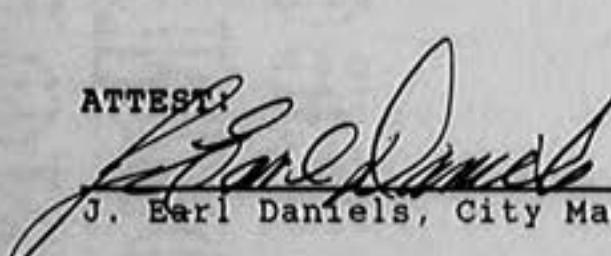
JOINT MEETING - DBA - BUSINESS OWNERS: Ms. Freddie Killough, Downtown Business Association Director and several members of the Downtown Business Association spoke to Council concerning the Marion Downtown. Mayor Clark advised that the City could only deal with public properties, such as sidewalks, parking lots, street trash containers, street trees and street cleaning. It was agreed that the City could do little about filling vacant properties. The Council and members of the DBA shared ideas on how to encourage more persons to shop in the Downtown Area. Ms. Killough informed the Council that it was not too difficult to find tenants for small buildings but there were a number of large buildings, either vacant or that will be vacant in a short period of time, and it is hard to find tenants for large buildings. There was a discussion about subdividing one or more large buildings into several small sections. The sections could be rented by individuals for display of items for sale. The items could be marked and sold by the manager of the business. It was agreed that the matter should be studied.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to adjourn on September 19, 1995 at 9:00 P.M.



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 3, 1995 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Robert Ayers, John Cross, Lloyd Cuthbertson, and Steve Little.

Councilman Edwards arrived for this meeting at 7:15 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruitt, Chief of Police; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter; WBRM; Brooks Spaulding, News Reporter, WDLF; Warren Trivett, News Reporter; The Bulletin.

GUESTS PRESENT: Cecil Owenby, 9 Vine Street Marion, North Carolina 28752; Woody Killough, Main Street Marion, North Carolina 28752; Brett Moore, Ridgecrest Avenue, Marion, North Carolina, 28752.

ORDINANCE - WEAPONS ON CITY PROPERTY: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to adopt the following Ordinance:

CITY OF MARION, NORTH CAROLINA

AN ORDINANCE TO REGULATE POSSESSION OF
WEAPONS ON CITY OWNED PROPERTY

WHEREAS, the North Carolina General Assembly has ratified House Bill 90; and

WHEREAS, House Bill 90 will require the issuance of concealed handgun permits to persons meeting certain qualifications; and

WHEREAS, House Bill 90 allows a unit of local government to enact an ordinance "to permit the posting of a prohibition against carrying a concealed handgun . . . on local government buildings, their appurtenant premises, and parks";

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marion, North Carolina that section 11 of the Code of Ordinances, City of Marion, North Carolina, is hereby amended to read as follows:

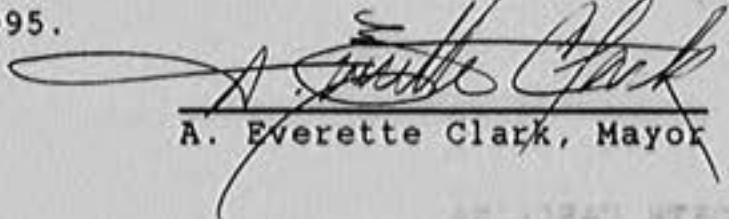
Sec. 11-16. Weapons prohibited on City property.

- (a) Except as provided in subsection (b), below, all persons are prohibited from possessing weapons as defined in General Statute 14-269 in City owned buildings, their appurtenant premises, and parks.
- (b) This prohibition shall not apply to the following persons:
 - (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

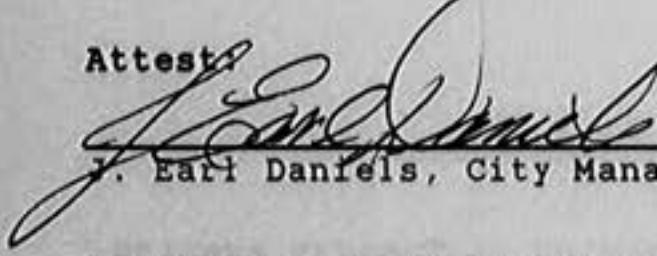
- (2) Civil officers of the United States while in the discharge of their official duties;
- (3) Officers and soldiers of the militia and the national guard when called into actual service;
- (4) Sworn law enforcement officers.
- (c) A conspicuous notice shall be posted at each entrance to any property set forth in subsection (a), above, stating: "Possession of weapons or carrying a concealed handgun is prohibited".
- (d) Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined \$500.00 or imprisoned for six (6) months or both.
- (e) Weapons possessed in violation of this ordinance are hereby declared to be contraband. The Chief of Police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any court order, the weapon shall be destroyed.

This ordinance shall become effective upon the posting of the notice referenced above.

Adopted this the 3rd day of October, 1995.


A. Everette Clark, Mayor

Attest:


J. Earl Daniels, City Manager/Clerk

AGREEMENT - OBSTRUCTION OF EASEMENT - ALLEN GURLEY: Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to approve the following Agreement:

STATE OF NORTH CAROLINA

AGREEMENT CONCERNING
OBSTRUCTION OF EASEMENT

COUNTY OF McDOWELL

THIS AGREEMENT, made and entered into this the _____ day of _____, 1995, by and between RICHARD ALLEN GURLEY and wife, DEBRA GURLEY (hereinafter call "Gurley"), and THE CITY OF MARION (hereinafter called "City").

WITNESSETH

THAT WHEREAS Gurley owns a certain tract of property which is described at Deed Book 393, Page 162, McDowell County Public Registry and which is located on the North Eastern corner of Lail Street and Sugarhill Road and which has a tax identification number of 1701.11-55-7263 and which is hereafter referred to as "Gurley property";

WHEREAS, the City owns a twenty foot wide easement for a City sewer line which runs along a portion of Gurley's property which is described above;

WHEREAS, Gurley wishes to construct a concrete slab and erect a canopy on that portion of Gurley's property which is reserved for the City's use in that easement for a City sewer line;

NOW, THEREFORE, the City, for and in consideration of ten dollars to the City in hand paid, the receipt of which is hereby acknowledged, does hereby allow Gurley to construct such concrete slab, erect a canopy and effectively obstruct the City easement subject to the following conditions:

1. That Gurley, their heirs and assigns and any subsequent owner of the Gurley property shall assume any and all liability for injuries or damages which may be suffered by Gurley their heirs and assigns, invitees, licensees or any subsequent owner, subsequent owner's heirs and assigns, invitees and licensees as a result of construction, maintaining, operating, repairing or improving the concrete slab, the canopy and any of its appurtenances, including those injuries or damages which may occur to Gurley, their heirs and assigns, invitees, licensees or any subsequent owner, subsequent owner's heirs and assigns, invitees and licensees which occur as a result of a "cave-in" resulting from the construction, maintenance, operation, repair or improvement of the concrete slab, the canopy and any of its

appurtenances. Further, Gurley, their heirs and assigns and any subsequent owner of the Gurley property shall indemnify and save harmless the City, its successors and assigns, from all damages growing out of or in any way connected with the use of said concrete slab, canopy and its appurtenances by Gurley, their heirs, assigns, invitees, licensees and the same shall apply to any subsequent owner;

2. That Gurley, their heirs and assigns and any subsequent owner of the Gurley property shall assume any and all liability for damages which may be