

suffered by the City sewer line or its appurtenances as a result of constructing, maintaining, operating, repairing or improving the concrete slab, the canopy and any of its appurtenances;

3. That Gurley, their heirs and assigns and any subsequent owner of the Gurley property shall assume any and all liability for damages suffered by the concrete slab, the canopy and its appurtenances which result from problems with or maintenance, repair, operation or improvement of the City sewer line;

4. That Gurley, their heirs and assigns and any subsequent owner of the Gurley property shall assume all liability for the cost of partial or whole removal of the concrete slab, canopy and its appurtenances should the City have to uncover the City sewer line in order to maintain, improve or repair the City sewer line or its appurtenances contained within the twenty foot wide City easement.

IN TESTIMONY WHEREOF, said parties have hereunto set their hands and seals, this the \_\_\_\_\_ day of \_\_\_\_\_, 1995.

RICHARD ALLEN GURLEY

DEBRA GURLEY

THE CITY OF MARION

By: \_\_\_\_\_  
Mayor

ATTEST:

Seal

\_\_\_\_\_  
City Manager

**AUCTION ITEMS - ADDITIONAL SURPLUS EQUIPMENT:** The City Manager presented a memo from Glen Sherlin, Public Works Director requesting that two military type generators be declared as surplus equipment and included in the upcoming auction. In addition, there is one Detroit Diesel Engine which was removed from the Vac All Truck unit.

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

**ANNUAL FLU SHOTS - CITY EMPLOYEES:** The City Manager presented a memo from LuAnn Ellis, Personnel Director requesting permission to line up the annual flu shots. Approximately forty employees received the shot last year at a cost of \$6.00 each.

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

NOTE: Councilman Edwards arrived for the meeting at 7:15 P.M. during the discussion of Bank Escorts.

**BANK ESCORTS - CHARGE PER TRIP:** The City Manager presented Council with a copy of certain Police policies. Section 5. read as follows:

**Section 5. Bank Escorts:** The Police Department will provide one bank escort per day to individuals or businesses making such request for a fee of three (\$300.00) hundred dollars per month. The fee shall be paid in advance of the service.

The City Manager advised that Mr. Fred Moody with Asheville Federal Bank is requesting that the Police provide a presence when they are filling their teller machine. This would happen once a week and would require an officer for approximately thirty minutes.

Councilman Edwards questioned if the City of Marion is in the same ballpark with other Cities in the amount charged for this service.

A discussion followed.

Upon a motion by Councilman Cross, seconded by Councilman Ayers, Council voted unanimously to change Section 5. of said Policy to read \$10.00 per escort.

**DOT - AGREEMENT - PAINTING OF CENTERLINES:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to approve the following Agreement:

STATE OF NORTH CAROLINA }  
COUNTY OF McDOWELL }  
MUNICIPALITY OF MARION } AGREEMENT  
AND NORTH CAROLINA DEPARTMENT OF TRANSPORTATION}

THIS AGREEMENT, made and entered into this the 3rd day of October, 1995, by and between the MUNICIPALITY of Marion, hereinafter referred to as "Municipality", a

duly organized and existing municipal corporation under the laws of the State of North Carolina, and the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as "NCDOT";

**WITNESSETH**

**THAT WHEREAS**, the Municipality is eligible under the provisions of G.S. 136-41.2 to receive the funds provided for in G.S. 136-41.1; and

**WHEREAS**, the Municipality has a population of less than 5,000 as defined in G.S. 136-41.1, and has, in accordance with the provisions of G.S. 136-41.3, indicated to the NCDOT its desire for the NCDOT to do certain construction, maintenance, or improvement work on non-system streets within the Municipality;

**NOW, THEREFORE, IT IS AGREED** by the NCDOT that it will do and perform such construction, maintenance, or improvement work on non-system streets, within the limits and under the provisions of G.S. 136-41.3; Provided, that the work to be done will be clearly outlined and the streets or sections of non-system streets upon which the work is to be done will be clearly designated in writing to the Division Engineer of the Division of Highway by the City Manager, the duly authorized officer of the Municipality; Provided, further, that no work will be done which will exceed the limits of the current or accrued payments made or to be made to said Municipality under the provisions of G.S. 136-41.1; and Provided, further that the Municipality, without cost or expense to the NCDOT, shall provide all necessary rights of way and the removal of such items as poles, trees, water lines, sewer lines, pipes, or other conduits as may be necessary, holding the NCDOT free from any claim by virtue of such items of cost and from such damage or claims as may arise therefrom.

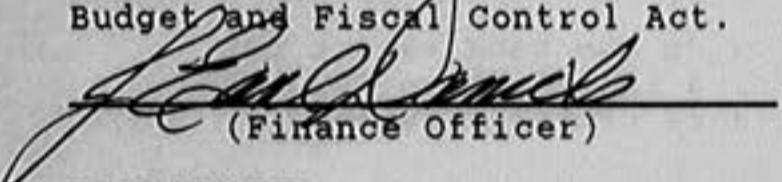
**IT IS FURTHER AGREED** that this contract shall be in full force and effect for a period of two years from and after July 1, 1995 and shall continue thereafter for successive periods of two years each unless the Municipality shall notify the NCDOT in writing of its desire to terminate said contract on or before April 1st of the year in which such contract shall expire.

The Municipality agrees and obligates itself to pay promptly upon presentation all bills or statements of its account incurred under the provisions of this agreement and said Municipality specifically agrees that if it should fail to pay its account to the NCDOT for the fiscal year ending June 30th by August 1st immediately following such fiscal year, then the NCDOT is authorized to retain such amount as may be necessary from the Municipality's allocation under G.S. 136-41.1 and apply it to said unpaid account until said account is paid in full, and the NCDOT shall not be obligated to do any further work provided for in this agreement until such account has been fully paid.

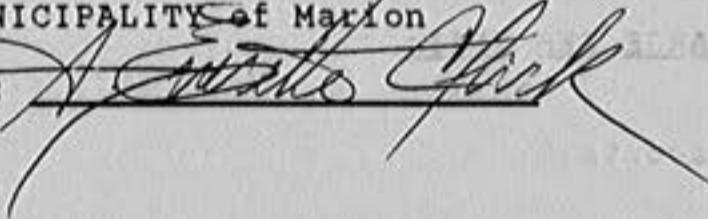
**IN WITNESS WHEREOF** the parties hereto have caused this agreement to be executed in triplicate in behalf of each by authority duly given as of the day and year first above written.

**RECOMMENDED:**

This instrument has been  
pre-audited in the manner  
required by the Local Government  
Budget and Fiscal Control Act.

  
(Finance Officer)

MUNICIPALITY of Marion

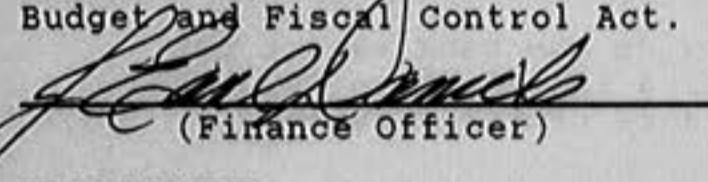
By: 

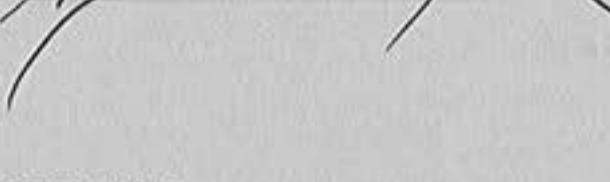
**RECOMMENDED:**

**RECOMMENDED:**

Division Engineer

Chief Engineer -Operations

APPROVED AS TO FORM  
AND EXECUTION  
By: 

N. C. DEPARTMENT OF  
TRANSPORTATION  
By: 

Note: The following resolution was provided by DOT in a fill in the blank form. The term "Commissioner" was used instead of "Councilman" and "town" was used instead of "city". The resolution presented below reflects the resolution worded as provided by DOT.

The following resolution was introduced by Commissioner Ayers, who moved its adoption:

**"WHEREAS**, the Town of Marion is a municipality with a population of less than 5,000 as defined in G.S. 136-41.1 and is an eligible municipality under the provisions of G.S. 136-41.2; and

**"WHEREAS**, the said Municipality desires that the NCDOT do such street construction, maintenance, or improvement on its non-system streets as the Municipality from time to time may request under the terms and provisions of G.S. 136-41.3, within the limits of the current or accrued payments made or to be made to said Town under the provisions of G.S. 136-41.1;

**"NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED** that the Board of Commissioners of the Town of Marion request the NCDOT to do such construction, maintenance or improvements on such of its non-system streets as may be designated in writing to the Division Engineer of the Division of Highways by its duly authorized officer and within the limits prescribed by law, as aforesaid; and

**"BE IT FURTHER RESOLVED**, that the Mayor and the Town Clerk be and they hereby are authorized and empowered to enter into such contracts with the NCDOT as may be necessary to effectuate the aforesaid expressed purpose, thereby binding the said Town to the fulfillment of its obligations incurred under this resolution and pledging any amounts that may become due it under G.S. 136-41.1 until said obligations are fully paid."

This motion was seconded by Commissioner Little and, after full discussion, was unanimously carried.

**McDOWELL INSURANCE - CHANGE IN LIABILITY INSURANCE:** The City Manager advised Council that he had received the following information from Marshall Dark of McDowell Insurance:

Statement from Marshall Dark:  
Our current Commercial General Liability coverage (Premises and Operations, Products and Completed Operation, Public Official and Law Enforcement Liability) contains an aggregate limit of coverage, which we have not had previously.

The limits currently are \$1,000,000 per occurrence with a general aggregate limit (other than Products-Completed Operations) of \$5,000,000 and a Products-Completed operations aggregate limit of \$2,000,000 for any one occurrence, but not more than \$5,000,000 (\$2,000,000 for Products-Completed operations) for all occurrences within a period of one year.

While this is a restriction in coverage by comparison with what we had the past few years, in my (Marshall Dark's) opinion it is not a significant change or one which we should be concerned about. Most Commercial General Liability policies are written with aggregate amounts of coverage.

This change does not in any way affect the prior coverage under which the City was protected at the time of the Michelle Lini incident.

**FIRST NATIONAL LEASING AND SOUTHERN NATIONAL:** The City Manager advised that First National Leasing, now BB & T, has transferred the balance of funds available for the Water and Sewer Improvements Projects to the City. The amount transferred is \$601,173.27. Prior to this time the Bank paid all bills, approved by the City, directly to the contractors, engineers and others with a copy of the check sent to the city.

**MARION THOROUGHFARE PLAN:** The City Manager advised, that in his opinion, the City of Marion will not receive any major funding from the Department of Transportation unless a new Thoroughfare Fare Plan is prepared.

The City Manager was instructed to bring information concerning cost to prepare a Thorough Fare Plan to the next meeting.

**DEPARTMENT OF CORRECTIONS - INMATES - REQUEST - ROD BIRDSONG:**

The City Manager advised that he had received a request from Mr. Rod Birdsong, Chamber of Commerce, requesting the City to approve inmates of the Department of Corrections to assist with preparations during the Mountain Glory Festivities, setting up bleachers and other various labor. He informed Council that he made the request since there was no obligation, responsibility or cost on the part of the City.

**WDLF RADIO - REQUEST FOR DIRECTIONAL SIGN:** The City Manager advised that Mr. Bill Shaw with WDLF is requesting permission to place a directional sign on City owned property at the corner of Brown Drive and Main Street to direct traffic to WDLF Radio Offices.

Upon a motion by Councilman Cross, seconded by Councilman Little, Council voted unanimously to approve this request provided all Zoning Regulations are met.

**UPDATE:**

**WATER AND SEWER PROJECTS:**

\*\*

Contractors arrived on October 2, 1995 to finish repairs on the two million gallon storage tank.

\*\*

The clearwell repairs are finished and the clear well passed the leak test.

\*\*

The sewer line serving the Myron Nelson residence has been cleaned from Spring Street to Rutherfordton Road. City Crews have done all they can do. The

remainder of the line will be cleaned under a contracted with a private firm having appropriate equipment for the work.

**STATEMENT - MAYOR CLARK:** Mayor Clark stated that he had talked with a member of the Fortenberry family, who was extremely upset and concerned about a political add concerning the city purchasing property from the family. He advised that the person informed him that the add made no mention of all the improvements on the property, just the amount of property and the purchase price. He advised that a factual sheet had been prepared for the news media giving the specifics of the property and improvements, purchase price etc. Councilman Edwards objected to the Board involving itself in the political process. He stated that this was a political matter and the Council should not get involved. Mayor Clark stated that he was only responding to a request from a citizen for clarification of the details but that he would withdraw from presenting the information. Councilman Ayers objected to withdrawing the factual information from the news media. Councilman Edwards stated that it was not appropriate for Council to get involved in the political process. Councilman Little stated that the truth is never inappropriate.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to adjourn on October 3, 1995 at 8:10 P.M.

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

ATTEST:

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

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 24, 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, Steve Little and Mike Edwards.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Linda Suttles, Head Water Clerk; Tom Pruitt, Chief of Police; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Brooks Spaulding, News Reporter, WDLF;

**GUESTS PRESENT:** Brenda Williams, 535 Reservoir Road, Marion, N.C. 28752; James A. Williams, 535 Reservoir Road, Marion, N.C. 28752; Scotty Willis, Route 4, Box 380 Marion, N.C. 28752; Charles Smith, Route 1, Box 509, Marion, N.C. 28752; Cecil Owenby, 9 Vine Street, Marion, N.C. 28752; Terry Smith, 186 Parker Padgett Road, Old Fort, N.C. 28762; Woody Killough, 100, South Main Street, Marion, N.C. 28752.

**APPROVAL OF OCTOBER 3, 1995 MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of the October 3, 1995 meeting. Councilman Edwards advised that the time he arrived for the October 3, 1995 meeting was documented wrong, however, the meeting he referred to was actually the September 19, 1995 meeting and the minutes of the October 3, 1995 meeting were correct.

**COMMUNITY BUILDING - COMPLAINT ON SCHEDULING PROCEDURES:** The City Manager advised that he had received several complaints in reference to scheduling the Community Building.

Mr. Charles Smith appeared before Council and advised that he had rented the Marion Community Building for a family reunion on the first Sunday in October for the past seven years, and had never had any problems until this year. He informed Council that he was told that he could not reserve the building earlier than one year in advance of the date he needed it. Mr. Smith advised that he was told that he would have to come by the City Hall to rent the building. He informed Council that when he came by, as instructed, a City Employee had already rented the building for the first Sunday in October. Mr. Smith told Council that he has over one hundred people in over four states to try and notify that the family reunion will not be held at the Marion Community Building on the first Sunday in October.

Mr. Scottie Willis came before Council with Mr. Smith and advised that when they failed to rent the building on the first Sunday in October, which was their first choice, he decided to come to City Hall to rent the building on the second Sunday in October. He advised that he arrived at City Hall early and observed the business hours posted on the doors, which read Office Hours 9:00 A.M. - 5:00 P.M. When persons continued to enter the office, before 9:00 A.M., Mr. Willis stated that he went in around 8:45 A.M. He was told by Linda Suttles, Utility Clerk, that someone else had called that morning at 8:15 A.M. to rent the building on the

second Sunday in October.

Mr. Smith and Mr. Willis were finally able to rent the building on the third Sunday in October for their Family Reunion.

They asked Council to allow their family to use the Community Building on the first Sunday in October, as in the past, and allow the Williams Family to use the building on the third Sunday for their family reunion.

A discussion followed.

Councilman Edwards made a motion that Mr. Smith be given the first Sunday of October 1996 as requested.

This motion died for lack of a second.

A discussion followed.

Several Council members suggested that the two families involved in this matter try to come to an agreement between themselves.

Mr. Willis asked Mr. Williams if they would switch Sundays with them so that they would not have to notify their family members about the change. Mr. Williams advised that he would not.

The City Manager advised that everyone renting the Community Building were given a set of rules and regulations. The present regulations permit telephoning in reservations. He informed Council that although the notice on the door states that City Hall hours are 9 A.M. to 5 P.M. the doors were unlocked at 8 A.M. when employees arrive for work. He advised that citizens were not kept waiting outside until 9 A.M. He informed Council that he understood the reasons for the complaint. That it was confusing but that he did not believe anyone had intentionally done anything wrong. He suggested that the rules and regulations be changed to eliminate any confusion on operating procedures.

Council decided that the Recreation Committee should meet and review the rules and regulations of the Community Building and have a recommendation for Council at the November 7, 1995 meeting for any proposed changes.

**COMMISSIONER TERRY SMITH - COMPLAINT - POLITICAL AD:** County Commissioner Terry Smith appeared before Council to complain about a political ad in the new media. He said that the ad informed city residents that the City had cut the city tax rate and that the amount of city taxes they pay have increased because the County had revalued their property. He informed Council that the State requires that the County revalue property at least once every eight years and that the City Council could reduce the tax rate to lower the taxes.

Mayor Clark advised that he was aware of the requirement for re-evaluation. He stated that the City tax rate was cut 4 cents, from \$.59 to \$.55.

**CONSENT AGENDA**

**VEHICLE TAX REFUND:** The City Manager presented a memo from Ms. Claudia Hill, Tax Collector; requesting refund for Ms. Marybeth Brown who lives and maintains her 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:

Marybeth Redmond Brown	308 Baldwin Avenue	\$15.20
1984 Mercury	Marion, NC	
Tax Value \$2,520.00		

143-208

**PRISON PROJECT - WATER/SEWER - TERRY BROTHERS - CHANGE ORDER NUMBER TWO - REVISION:** The City Manager presented Council with a memo from Ms. Lovina Smith, Zoning Administrator, requesting that change work order No. 2 submitted by Terry Brothers Construction Company, Inc. on the Prison Project as approved by the Marion City Council on August 22, 1995 be revised.

A mistake was discovered when reviewing the final application for payment. On Application for payment No. 7, the contractor used the wrong amount previously paid by the City of Marion. In doing so, the amount of payment due Terry Brothers Construction Company, Inc. on Application No. 7 was short by \$4,050.11. The mistake was carried forward on the remaining applications for payment. An application for payment has been submitted in the sum of \$4,050.11 to correct the error.

The correct increase in the contract price should be \$18,734.75 instead of \$14,684.64 as approved on August 22, 1995.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, those members of Council present voted unanimously to approve the Change Order No. 2 Revision as requested.

**CABLE TV CONTRACT - PERMISSION TO CONTRACT SERVICES:** The City Manager advised

Council that the cable franchise agreement with Intermedia expires on December 31, 1995.

The City Manager recommended that the City contract with Mr. Dave Harris of Greensboro, through IPDC, for review and preparation of a new franchise.

The City Manager advised that Mr. Dave Harris has some expertise in the area of cable franchises and is familiar with FCC regulations regarding cable operations..

Council agreed that the City needs an expert to redraw this franchise and asked the City Manager to invite Mr. Harris to the first City Council meeting in December for a presentation on procedures and costs.

**THOROUGHFARE PLAN - AGREEMENT:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Cross, those members of Council present voted to approve the following Agreement:

**AGREEMENT FOR THE PERFORMANCE  
OF  
THOROUGHFARE PLANNING STUDY  
BETWEEN THE  
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
AND THE  
CITY OF MARION**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_ by and between the North Carolina Department of Transportation, hereinafter referred to as the Department, and the City of Marion, North Carolina, hereinafter referred to as "the municipality":

**WITNESSETH**

**THAT WHEREAS**, Chapter 136, Article 3A, Section 136-66.2(a) of the General Statutes of North Carolina require that "Each municipality, with the cooperation of the Department of Transportation, shall develop a comprehensive plan for a street system that will serve present and anticipated volumes of vehicular traffic in and around the municipality"; and

**WHEREAS**, the said Chapter 136, Article 3A, Section 136-66.2(b) provides that "After completion and analysis of the plan, the plan may be adopted by both the governing body of the municipality and the Department of transportation as the basis for future street and highway improvements in and around the municipality"; and

**WHEREAS**, the Department has authorized cooperative thoroughfare planning with municipalities on a 60-40 cost sharing basis (60% State Funds, 40% Municipal Funds); and

**WHEREAS**, it has become desirable to conduct additional studies of the thoroughfare plan for the Marion urban area; and

**WHEREAS**, the Department desires to cooperate with the municipality to the end that an adequate, long-range thoroughfare plan be produced to promote the proper development of the highway system of the State and street system of the municipality for the safety and convenience of the traveling public.

**NOW THEREFORE**, in consideration of the foregoing, the parties agree as follows:

**Section 1:** That during the 24 month period beginning April 1, 1996, the Department will furnish necessary trained thoroughfare planning personnel who will accomplish the following thoroughfare planning work:

**Analysis and Design**

- Comprehensive traffic volume counts on the major street system;
- Inventory of environmental factors which will need to be considered in plan development;
- Provide a street inventory listing for the major streets in the planning area;
- Conduct a dwelling unit, employment, and commercial vehicle survey;
- Development of travel forecast models to estimate internal, external and through travel;
- Estimation of 2025 travel patterns based on the projections of socioeconomic data;
- Evaluation of the adequacy of the existing major street system and thoroughfare plan with respect to serving future travel demands, traffic safety, and efficiency;
- Development of a revised plan adequate to serve future travel efficiently and safely; and that will meet area transportation goals and objectives, minimize social and economic impacts, and environmental effects;
- Recommendations for thoroughfare cross sections and rights-of-way;
- Recommendations for construction priorities based on a benefits matrix evaluation of projects;
- Cost estimates for thoroughfare improvements;
- Recommendations for plan implementation; and

- Recommendations for traffic operations improvements in critical corridors should such be required.

#### **Report and Plan**

The thoroughfare plan will be presented on appropriate maps and will be accompanied by a printed and bound report giving a description of the plan, and describing the inventory, analysis, and other supporting data. A minimum of fifty (50) copies of the report will be furnished to the municipality.

The personnel designated by the Department shall participate in meetings and public hearings necessary for the preparation of plans to be submitted for acceptance and adoption by the parties hereto, provided such meetings do not exceed more than one in any calendar month, unless agreed to by the designated planning personnel or the Manager of the Statewide Planning Branch.

**Section 2** : That during the study the municipality agrees to:

- cooperate with the Department in every way in the conduct of the project and to make available research materials, data, maps and other records of the municipality;
- assist in projections and distributions of employment and population for the design year 2025, by traffic analysis zone;
- assist in a transportation goals and objectives survey;
- arrange meetings of the planning board and/or other municipal officials to review the work carried out under this Agreement and to make such recommendations as are required.

**Section 3** : For the purpose of providing funds for carrying out this agreement, it is understood that the municipality will pay the Department the sum of EIGHT THOUSAND NINE HUNDRED AND THIRTY THREE DOLLARS (\$8,933.00) to be paid as follows:

FOUR THOUSAND FOUR HUNDRED AND SIXTY-SEVEN DOLLARS (\$4,467.00) on July 1, 1996.

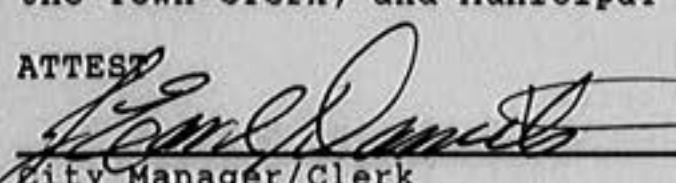
FOUR THOUSAND FOUR HUNDRED AND SIXTY-SIX DOLLARS (\$4,466.00) on the completion of the study (fiscal year 1997-1998).

**Section 4** : Either party may terminate this Agreement by giving 30 days written notice to the other party prior to the date of termination. Upon termination of this Agreement as herein to conduct and carry on the work, studies, research, and investigations, heretofore provided for shall terminate. Any funds contributed and paid by the municipality to the Department which have not been used or obligated shall be refunded to the municipality by the Department. In the event the municipality has not paid its full share of the cost incurred by the Department, the municipality shall do so within 30 days of the termination of the agreement as herein provided.

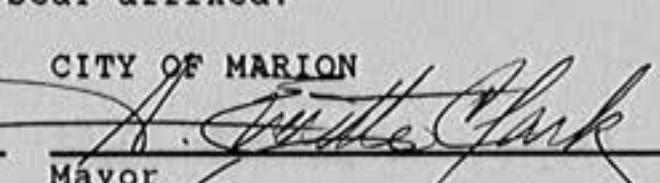
**Section 5** : It is understood and agreed by and between the parties hereto that this Agreement shall become effective upon approval by the governing body of the municipality and by the Department and shall continue until the terms of the Agreement are fulfilled or until the Agreement is terminated as herein provided.

**Section 6** : In witness whereof, the parties of this Agreement have been authorized by appropriate and proper resolution to sign same, the Department by the State Highway Administrator, and the municipality by the Mayor attested to by the Town Clerk, and Municipal Seal affixed.

ATTEST

  
Linda Daniels  
City Manager/Clerk

CITY OF MARION

  
H. Jayne Clark  
Mayor

Seal

DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
State Highway Administrator

Approved as to Form  
Attorney General of North Carolina

By: \_\_\_\_\_  
Assistant Attorney General

The voted was as follows:

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

**DEPARTMENT OF TRANSPORTATION - AGREEMENT - CHRISTMAS LIGHTS -POWER POLES:** Upon a motion by Council Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the following Agreement:

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL

NC DEPARTMENT OF TRANSPORTATION

and  
CITY OF MARION

AGREEMENT

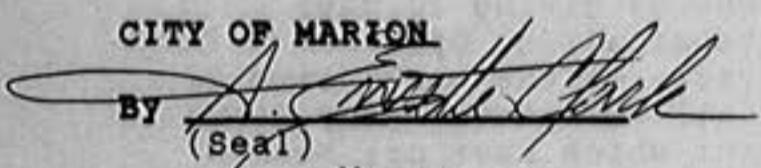
THIS AGREEMENT, made and entered into this the 24th day of October, 1995, by and between the Department of Transportation and the City of Marion, hereinafter referred to as the party of the second part:

WITNESSETH

THAT WHEREAS, the party of the second part has requested the Department to perform work hereinafter described which the Department has agreed to do in consideration of the actual cost incurred:

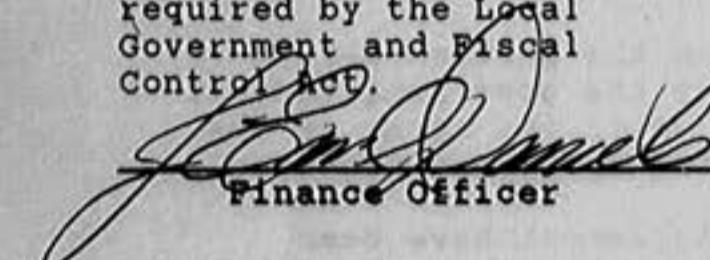
1. The Department of Transportation shall perform the following:  
Provide electrical power from existing traffic signal control cabinets at various intersections for the purpose of lighting Christmas decorations for the period November 19 through January 1, Marion, McDowell County. Intersections are West Court/Logan Streets; East Court/North Garden Streets; North Main/Logan Streets; Logan/Fort Streets; North Garden/New Streets; West Henderson/Logan Streets.
2. The Department shall furnish all of the necessary personnel, labor, equipment and material for the performance of said work.
3. The estimated annual cost is \$126. The City shall reimburse the Department for actual costs upon receipt of an invoice from the Department. The costs will be billed annually to the City of Marion.
4. This agreement is entered into and executed by the State Highway Administrator on behalf of the Department of Transportation in accordance with Chapter 136 of the N.C.G.S. and G.S. 143B-24 where applicable.

CITY OF MARION

By   
(Seal)

Mayor

This instrument has been preaudited in the manner required by the Local Government and Fiscal Control Act.

  
Finance Officer

DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
State Highway Administrator

Approved as to Form and Execution  
Michael F. Easley,  
Attorney General

By \_\_\_\_\_  
Attorney General

A motion was made by Councilman Little and seconded by Councilman Cuthbertson for the adoption of the following resolution, and upon being put to a vote was duly adopted:

WHEREAS, the City Council of the Municipality of Marion has requested the Department of Transportation to perform the following highway related work for said Municipality on a cost reimbursement basis in accordance with Chapter 136 of the N.C.G.S. and G.S. 143B-24 where applicable:

Provide electrical power from existing traffic signal control cabinets at various intersections for the purpose of lighting Christmas decorations for the period November 19 through January 1 (the Christmas season) Intersections are West Court/Logan Streets; East Court/North Garden Streets; North Main/Logan Streets; Logan/Fort Streets; North Garden/New Streets; West Henderson/Logan Streets.

(Description of Work)  
at (location of work) Marion, McDowell County

at an estimated cost of \$126 per Christmas Season

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED that the Mayor and the Clerk of the Municipality of the City of Marion be and they hereby are authorized and empowered to enter into a contract with the Department of Transportation as may be necessary to effectuate the aforesaid expressed purpose, thereby binding the said Municipality to the fulfillment of its obligation incurred under this resolution and to its agreement to pay any amounts that may become due under the agreement on a cost reimbursement basis until such obligations are fully paid.

I, J. Earl Daniels, Clerk or the Municipality of the City of Marion, do hereby certify that the above is a true and correct copy of an excerpt from the

minutes of the City Council of said Municipality of a meeting duly and regularly held on the 24th day of October, 1995  
 (SEAL)

CLERK  
 Municipality City of Marion

Resolution No: R-95-10-24-1

**RESOLUTION - APPROPRIATED FUNDS FOR REGIONAL COUNCILS:** Upon a motion by Councilman Little, seconded by Councilman Edwards, those members of Council present voted to approve the following Resolution:

RESOLUTION  
 BY THE  
 CITY OF MARION

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

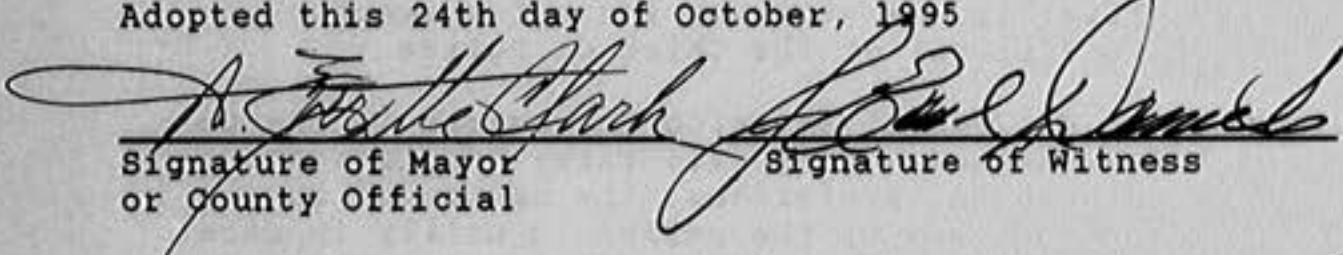
WHEREAS, the 1995 General Assembly recognized this need through the appropriation of \$864,270 to help the Lead Regional Organizations assist local governments with grant applications, economic development, community development, and to support local industrial development activities and other activities as deemed appropriate by their local governments; and

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

WHEREAS, in Region C, funds in the amount of \$48,015 will be used to assist local governments with state and federal grant applications in community and economic development, provide various support activities to industrial development in the region, develop and expand database essential to community and economic development, provide technical assistance to local governments in planning and growth management issues, assist local governments in resolving solid waste issues, provide staff and other assistance to the Region C Certified Development Corporation, and other activities as requested by local governments and authorized by the Isothermal Planning and Development Commission.

NOW, THEREFORE BE IT RESOLVED, that the City of Marion requests the release of its share of these funds, \$896.94, to the Isothermal Planning and Development Commission at the earliest possible time in accordance with provisions of Chapter 324, House Bill 229, section 9.4 of the 1995 Session Laws.

Adopted this 24th day of October, 1995

  
 Signature of Mayor  
 or County Official

Signature of Witness

SEAL

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Title

Resolution No: R-95-10-24-2

**REQUEST - POLICE CHIEF - PERMISSION TO ADOPT RIDE ALONG PROGRAM:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to approve the following Policy:

MARION POLICE DEPARTMENT

Reference  
 Operational Policy 0432

Subject  
 October 1, 1995

Effective Date Ride Along Program

Reevaluation Date October 1, 1995	Special Instructions New Issue	No. Pages 3
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I. PURPOSE

The purpose of this program is to increase understanding between officers and citizens. Officers can use the period of the ride along to learn how they are viewed by citizens, and riders can increase awareness of law enforcement needs, problems, and operations.

II. POLICY

It is the policy of the Marion Police Department to encourage community

interest and involvement in the law enforcement process and to allow reputable citizens and students to ride as passenger/observer in Marion Police Department vehicles for legitimate civic or educational reasons. Participation in the Ride Along Program is limited to residents of the City of Marion, employees working for businesses within the City of Marion and on occasion those who apply for consideration with a special purpose, i.e., students, visiting Law Enforcement personnel.

### III. PROCEDURES

#### A. Persons Eighteen (18) Years of Age and Older

Persons eighteen (18) years of age and older, wishing to participate in the program, will address a letter of request to the Chief of Police identifying themselves (this will include full name, sex, race, D.O.B., as well as address and telephone number), the date and time they wish to ride, and

their particular interest in law enforcement. Persons studying Criminal Justice or engaged in Criminal Justice Research, City Officials, or visiting Law Enforcement Personnel will be given priority.

1. A brief background investigation of each rider will be made to determine if the citizen is of suitable character to ride along.
2. A Waiver Form (see appendix) must be completed and signed by the Ride Along participant before being allowed to ride. Signing the waiver form must be voluntary. However, failure to sign the waiver form, indicating that the person assumes the risk involved in riding, shall result in refusal of permission to ride.
3. Completed release forms will be filed in communications. A new waiver form will be signed and dated each time a participant rides.
4. Participation in the Ride Along Program shall be limited to once every ninety (90) days. This limitation shall not apply to criminal justice students, criminal justice researchers, city officials, or visiting law enforcement personnel, subject to approval of the Chief of Police.
5. Riders will report to the Patrol Division Supervisor in charge on the date and time assigned. They will carry identification including doctor and hospital preference, the nature of any medical problems, and the name of the person to notify in case of emergency. Riders will dress in neat and clean clothing, including street shoes. No jeans or T-shirts will be allowed.
6. Each rider will be briefed by the Officer or Supervisor in charge, on the hazards and dangers involved. The rider, at all times, shall be under the direction of the officer with whom he/she rides. Cameras and recorders are prohibited except for media representatives.
7. Only one (1) rider will be allowed in each vehicle; unless the rider is of the opposite sex, at which time two (2) riders will be mandatory. The Chief of Police will assure that proper scheduling is accomplished in advance. No more than one (1) vehicle on any watch will have riders at any one time.
8. The rider participant is required to wear his/her safety belt at all times while riding in police vehicles.

#### B. Persons Under Eighteen (18) Years of Age

Interested persons under eighteen years of age are encouraged to visit our Police Department, tour the facilities, and talk with officers working areas in which the person may be interested. With parental permission and under the direct control and supervision of an officer in the rank of Sergeant or above, persons under eighteen (18) may ride. This will be an extremely closely supervised activity, and will consist only of a general tour of the city and explanation of police duties. Release Form must be signed by parent/guardian and participant.

C. Officer's Responsibility

1. When an officer is assigned a citizen rider, he will use the opportunity to fully acquaint the citizen rider with the range of his duties and responsibilities. He will attempt to expose the citizen to law enforcement work, without putting the citizen into a hazardous situation, and without allowing the citizen to participate in carrying out his duties, or being privileged to confidential or sensitive situations.
2. When assigned a rider, the officer will immediately make known to the supervisor in charge any usual assignments which could present a hazard beyond normal risk. The supervisor in charge will then find other means to complete the ride, or he will ask the citizen to return on another day.
3. During the course of a ride, if the officer or citizen decides that a danger is present to the citizen, the officer will discontinue the ride. The officer may also discontinue a ride if continuing it would threaten the officer's safety or substantially interfere with the discharge of duties. When discontinuing, the officer will notify Communications and attempt to provide either immediate transportation to the Police Department, or shelter until transportation can be obtained.
4. Riders will inherently alter the normal discharge of the officer's duties and therefore, "interfere" with them to some degree. However, when a rider acts in such a manner that will substantially interfere, the officer should give one clear warning that the behavior will not be tolerated. If the behavior persists, the ride should be discontinued. A report to the Chief of Police indicating the problem will assure the citizen will not be allowed to participate in the future.

By order of:

Thomas B. Pruett, Jr.  
Chief of Police

**CITY OF MARION  
MARION POLICE DEPARTMENT  
Waiver of Claim for Damage**

**PLEASE READ THIS DOCUMENT CAREFULLY AND ENTIRELY. BY SIGNING THIS RELEASE, YOU MAY BE GIVING UP VALUABLE RIGHTS.**

For the reasons and consideration set forth herein, the undersigned does hereby remise, release and forever discharge the City of Marion and its officers and/or employees of and from any and all action, cause of action, suits, judgements, demands and claims whatsoever for injuries, damages or other losses suffered by the undersigned and caused by the City of Marion or any of its agents or employees including all injuries, damages and losses caused by any act of any of its officers, agents and employees. In consideration of permission to participate in the "Ride Along" program and actually ride in a Marion Police Department vehicle, I hereby agree to refrain from interfering with said officers and to be subject to their instructions and orders.

This release is binding upon not only the undersigned, but his/her heirs, administrators, executors, successors and assigns.

NAME: \_\_\_\_\_ DOB: \_\_\_\_\_  
Last                    First                    Middle

ADDRESS: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

WITNESS my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
\_\_\_\_\_  
PUBLIC

My Commission expires: \_\_\_\_\_ NOTARY

This release is valid from:

\_\_\_\_\_  
(Month, Day, Year, Hour)                    to                    (Month, Day, Year, Hour)

Unsworn persons must be approved by the Chief of Police before riding. Sworn officers from other jurisdictions may be approved by shift supervisor or watch

commander.

Authorization: \_\_\_\_\_ Name/Title

Approved \_\_\_\_\_  
Disapproved \_\_\_\_\_

(completed copy to be filed in communications office)

MPD Form 75

**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 was Ms. Ruth G. Lewis. Location of business would be 1 North Main Street.

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

**TRANSPORTATION IMPROVEMENT PROGRAM:** Mayor Clark was directed by Council to write a letter on behalf of the City of Marion to the North Carolina Department of Transportation supporting the following projects:

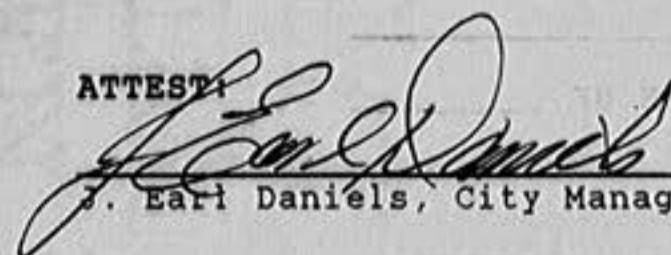
Route	Project ID	Description
US 70	R-3115	EAST OF CATAWBA RIVER BRIDGE TO US 70-221 BUSINESS NORTH OF MARION. WIDEN ROADWAY TO A FIVE LANE CURB AND GUTTER FACILITY.
US 221	R-2596	NC 226 TO THE BLUE RIDGE PARKWAY. WIDEN ROADWAY TO A MULTI-LANE FACILITY.
NC 226	R-2642	I-40 TO US 221. WIDEN ROAD WAY TO MULTI-LANE FACILITY. REQUESTED: INCREASE LENGTH OF PROJECT BY APPROXIMATELY ONE MILE SOUTH TO ENTRANCE TO NEW N.C. CORRECTIONAL FACILITY.
SR 1001	R-2643	SUGAR HILL ROAD, I-40 TO MARION BYPASS. WIDEN ROADWAY TO MULTI- LANE FACILITY.
BICYCLE	E-3416	BICYCLE TRAIL OLD US 70 - OLD FORT PROGRAM TO RIDGECREST
Route	Project ID	Description
US 221	NOT ASSIGNED	GEORGIA AVENUE TO THE MARION BYPASS. WIDEN ROADWAY TO MULTI-LANE FACILITY WITH CURB AND GUTTER.

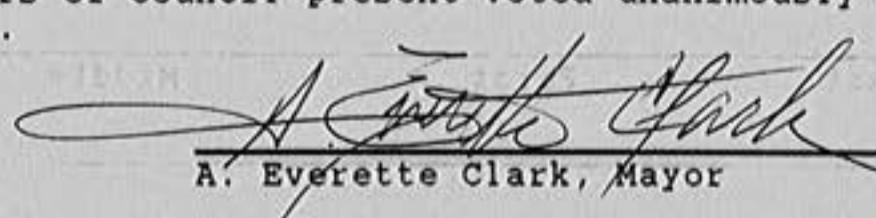
In addition, to support the projects submitted by the McDowell Chamber of Commerce and McDowell County.

**COUNCILMAN EDWARDS - POLICE PATROLS - COMMENTS:** Councilman Edwards wanted to commend the Police Department for doing a good job with patrolling and ask that Council keep in mind increasing the amount budgeted to the Police Department for next year.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, those members of Council present voted unanimously to adjourn on October 24, 1995 at 9:20 P.M.

ATTEST:

  
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, November 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 for this meeting at 7:13 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruitt, Chief of Police; Freddie Killough, DBA; Charles Burgin, City Attorney; Jim Issacs, City Auditor.

**GUESTS PRESENT:** Garland Franklin 234 Spring Street, Marion, N.C. 28752; Scottie Willis, Route 4, Box 780 Marion, N.C. 28752; Charles Smith, Route 1 Box 509 Marion, N.C. 28752; Nick Hayes 518 Pinecrest Drive, Marion, N.C. 28752.

**APPROVAL OF OCTOBER 24, 1995 MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the October 24, 1995 meeting.

Councilman Edwards arrived for this meeting during the beginning of the following discussion.

**ROADWAY AGREEMENT - LADY MARION PLAZA - WESTWOOD CHATEAU DRIVE:** The City Manager presented a letter from the City Attorney to Council in reference to the Agreements deeding a portion of Westwood Chateau Drive to the City to be added to the City's Street System.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted at the suggestion of the City Attorney to require the property owners to provide title examinations at no cost to the City of Marion before the City accepts the properties.

The vote was as follows:

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

**COMMUNITY BUILDING - PROPOSED RULES AND REGULATIONS:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Ayers, Council voted unanimously approve the following Rules and Regulations:

MARION COMMUNITY BUILDING  
RULES AND REGULATIONS

EFFECTIVE JANUARY 1, 1996

MARION COMMUNITY BUILDING

The Marion Community Building is owned and operated by the City of Marion. It is available to civic groups, organizations, and individuals needing a place to meet.

DAYS OF OPERATION

The Community Building is available to be scheduled for use seven (7) days a week, the entire year round, excluding days used by local Civic Clubs and Not-For-Profit Organizations.

CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS USING THE COMMUNITY BUILDING ON A REGULAR SCHEDULE

Marion Rotary Club	Every Thursday 7 AM to 2 PM
Lions Club	1st and 3rd Thursdays 2 PM to 9 PM
Kiwanis Club	Every Tuesday 1 PM to 8:30 PM
Civitan Club	2nd and 4th Mondays 2 PM to 8 PM
Christian Women's Club	3rd Monday 7 AM to 3 PM

After 5 Club	3rd Monday 3 PM to 9 PM
Womens Aglow	
Fellowship	Last Saturday each Month 8 AM to 1 PM
McDowell Ballroom	
Dancers	Last Saturday each Month 1 PM to 11 PM

#### HOURS OF OPERATION

The Community Building may be opened as early as one desires; however, it is requested that the person or persons using the building be out by 12:00 o'clock midnight.

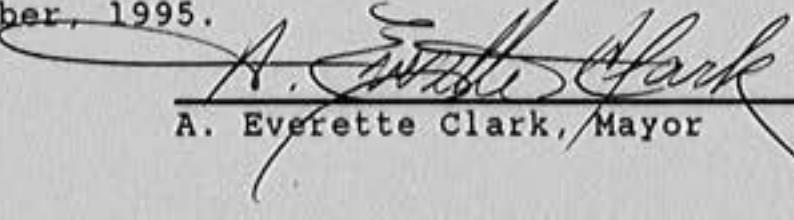
#### RULES AND REGULATIONS

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.
2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least five (5) work days in advance of the date the Building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules or regulations or any damages to the facilities. Civic Clubs and Not-For-Profit Organizations using the building on a regular basis shall be exempt from making a deposit.
3. All persons or groups renting the Marion Community Building must pay for the use of the building at the time reservations are made. No refunds will be made by the City should some person or group not use the building on the date scheduled; however, the person or group may re-schedule the building without additional cost at some other open date. Reservations must be made in person (no reservations by telephone), no earlier than 9 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (EXAMPLE: If you wish to schedule the building in the month of October 1996, the earliest you can schedule the building is September 1, 1995). In the event two or more persons are at the Counter at 9 A.M., wishing to rent the building on the same day, the name of one person, representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a First Come - First Served basis. The deposit shall be picked up within seven (7) work days following the use of the building and the receipt issued by the City for the deposit must be presented to pick up the deposit. The receipt will be kept and destroyed by the City.
4. The person or group renting the Community Building may not sub-let the building to another person or group.
5. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc.
6. The piano shall NOT be moved by anyone other than authorized City employees. If you need the piano moved, please ask that the City have the piano moved for you.
7. No one shall be permitted to use the kitchen for any purpose unless necessary arrangements have been made and the fee paid to City Hall.
8. Persons or groups renting the kitchen facility may use the existing pots, pans, cutlery, dishes, glasses, and utensils. These items may NOT be removed under any circumstances. The City will NOT replace or purchase any additional kitchen ware. If additional dishes or utensils are needed, those using the facility shall be required to furnish their own.
9. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures, including dishes, utensils, etc. before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. All garbage and refuse shall be removed from the building and be placed in the containers located outside the kitchen door.
10. No equipment of any kind, including chairs, tables, cooking utensils, dishes, silverware, etc. shall, under any circumstances be removed from the main floor of the building without the specific permission of the City Council.
11. Any fixtures, furniture, or decorations provided by the user(s) must be

removed from the building immediately following the use of the same so the building will be ready for use by the next group.

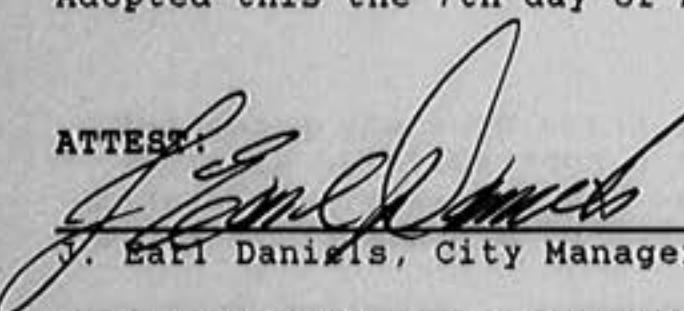
12. No person, organization, etc. may use the Community Building for commercial purposes. (It is the intent of this regulation to prohibit any person from using the building for personal gain).  
EXCEPTION: Any commercial enterprise having a business building located within the City Limits and having a City Privilege License and/or other necessary license or permit, may use the Community Building for no more than two (2) times per calendar year and no more than two (2) consecutive days each time for the purpose of display demonstration, and sales of materials, products and/or services which are sold and/or provided at the commercial enterprises main building located within the City.
13. No person(s), organizations, etc. may use the Community Building for religious services.
14. No person, firm or corporation will be allowed to use the building for the purpose of offering bingo games to the general public.
15. Each person or group using the building will be held responsible for any damages to the walls, floors, windows, etc. and for the breakage or loss of the City owned China, glassware, cooking utensils, etc.
16. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use. The podium and the head tables are permanently installed. No attempt should be made to move them.
17. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building.
18. The volume for the speaker system is preset. The equipment may be turned on by a switch located on the back side of the podium. No other equipment, other than the microphone may be hooked to the sound system at any time.
19. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

Adopted this the 7th day of November, 1995.

  
A. Everett Clark

A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels

J. Earl Daniels, City Manager/Clerk

**COMMUNITY BUILDING - PROPOSED NEW RATES:** Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the following rates for persons or groups using the Building January 1, 1996 and thereafter, excepting only reservations already made and paid for.

**COMMUNITY BUILDING RATES  
EFFECTIVE JANUARY 1, 1996**

**PER DAY, PER EVENT CHARGE: MAIN LEVEL:**

ASSEMBLY ROOM USE ONLY	\$50.00
KITCHEN AND ASSEMBLY ROOM	\$75.00
DEPOSIT FOR EACH USE	\$25.00

**CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED BY THE CITY COUNCIL TO USE THE BUILDING ON A REGULAR SCHEDULE:**

PER DAY, PER EVENT CHARGE	\$18.00
NO DEPOSIT REQUIRED	

**PER DAY, PER EVENT CHARGE: BASEMENT:**

\$5.00 PER HOUR OR PORTION THEREOF, WITH A MINIMUM OF \$10.00 AND A MAXIMUM OF \$25.00 PER USE, NOT TO EXCEED ONE DAY.	
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**FORTENBERRY PROPERTY - FINANCING PROBLEM:** City Auditor Jim Issacs appeared before Council to advise that in preparing the City Audit he discovered that the City was

not in compliance with State Law in the method used in financing the Fortenberry property. He advised that he called the Local Government Commission to confirm his interpretation of the Statute. The Local Government Commission suggested that he call the City Attorney. He informed Council that he had notified the City Attorney and the City Manager.

City Attorney Charles Burgin advised that a Resolution had been prepared to resolve the problem.

The Resolution upon adoption would rescind, nullify and void the original agreement and establish a new agreement providing for a down-payment in the amount of \$50,000.00 and \$19,576.07 representing rental for the City's use of the property since October 28, 1994. The balance would be paid off in four years at 8% interest saving the City \$41,671.44 in interest payments.

The City Manager advised Council that Mayor Clark and the Manager had met with Ms. Eloise Fortenberry and her daughter and explained that in order for the City to honor the original agreement and comply with State Law it would be necessary for the City to file an application with the Local Government Commission and conduct a public hearing on the financing of the property. He informed the Council that he also explained that there were two other options available: 1) the City could pay her for the use of the property and then pay her cash for the agreed purchase price of \$225,000.00, or 2) the City could pay her for the use of the property, \$50,000.00 down-payment and she could finance the balance of \$175,000.00 at 8% interest for four years. She was later advised that if she accepted cash for the property she would receive \$19,576.07 for the City's use of the property and \$225,000.00 for the purchase price. She was also advised that the City could pay her \$19,576.07 for the use of the property, \$50,000.00 as a down-payment and the balance would be paid off in four years at 8% interest. He told Council that it was explained to her that if the City paid cash that she would not receive any interest and if she accepted the down-payment of \$50,000.00 with the balance being paid off in four years at 8% interest that she would loose \$41,671.44 in interest compared to the original agreement. Ms. Fortenberry informed the Mayor and Manager, at their meeting with her, that she would prefer for the City to pay for the use of the property and the down-payment and pay the balance off in four years.

✓ Councilman Little made a motion to approve the Resolution prepared by the City Attorney's Office to void the existing contract and enter into the new contract to pay for the use of the property, \$50,000.00 down-payment and the balance in four years at 8% interest and also to approve the Budget Amendment prepared by the City Manager. This motion was seconded by Councilman Cuthbertson.

Mayor Clark asked for any discussion on the motion.

Councilman Edwards asked City Attorney Charles Burgin if there were any potential liability to the City if it is decided not to enter into a contract? He also asked if this were a way out for the City not to purchase the property. He stated that the way he looks at the matter you cannot be in breech of a contract if it is void.

Mr. Burgin stated that he does not know but that Ms. Fortenberry deserves payment for the time the property was used in the past year.

Councilman Little stated that the question is not whether the City wants to purchase the property, that decision has already been decided over a year ago. He stated the City can change the financing method to comply with State Law and save the City over \$41,000.00.

Councilman Edwards stated that if the City takes one action, the City may save money but if the City takes another action the City may be able to get out of a Contract.

Councilman Edwards advised that the public has a right to be here. He stated that the matter should be tabled and give the public a chance to come in and be heard. That he feels it is possibly illegal to vote on the issue due to it not being on the Agenda and no notice given to the public.

Mayor Clark advised that if all Council Members were not present the matter would not have been brought up.

Councilman Little withdrew his motion and asked that the matter be place on the agenda for the next regular meeting of Council. Councilman Cuthbertson withdrew his second.

**1994 TAX REFUND - KATIE K. HOLLIFIELD:** The City Manager presented a memo from Ms. Claudia Hill, Tax Collector; requesting a refund for Ms. Katie Hollifield in the amount of \$17.70. A clerical error was made by the McDowell County Tax Office on

the 1994 real property tax bill.

Mrs. Hollifield was due the Senior Citizen Exemption of \$15,000 for 1994, the exemption she received was for only \$12,000.

**LONGEVITY CHECKS - CITY EMPLOYEES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to give the City Employees Christmas longevity pay based on the number of years of continuous uninterrupted employment with the City. The method of longevity pay will be as follows:

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.

**EXPRESSION OF APPRECIATION - MARION FIREMAN:** Upon a motion by Councilman Ayers, seconded by Councilman Little, Council voted unanimously to accept the recommendation of Fire Chief Tom Milligan that a gift of \$1,300.00 to be given to Donald Anderson, Bruce Edwards and Jimmy Morris, and \$600.00 be given to Jim Neal as an expression of appreciation.

**REQUEST - LICENSE TO OPERATE A PLACE OF AMUSEMENT:** The City Manager presented Council with an application requesting a license to operate a place of amusement.

Name of applicant was Barton T. Griffin. Location of business would be 334 East Court Street.

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

**RESOLUTION - LOCAL GOVERNMENT COMMISSION - APPLICATION:** Upon a motion by Councilman Little, seconded by Councilman Ayers, Council voted unanimously to approve the following Resolution:

**RESOLUTION  
AUTORIZING THE FILING OF AN APPLICATION  
FOR APPROVAL OF A FINANCING AGREEMENT  
AUTHORIZED BY NORTH CAROLINA GENERAL STATUTES 160A-20**

**WHEREAS**, the City of Marion desires to refinance an existing debt for water and sewer improvements, an existing debt for the Marion City Hall Building and an existing debt for the Marion Fire Station.

**WHEREAS**, the City of Marion desires to refinance these existing debts by the use of an installment contract authorized under North Carolina General Statute 160 A, Article 3, Section 20; and

**WHEREAS**, Findings of Fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its Findings of Fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Marion, meeting in regular session on the 7th day of November, 1995, that said Council makes the following **FINDINGS OF FACT**:

1. The proposed contract is necessary or expedient because of potential savings on financing costs to the City. The City anticipates substantial savings in the total interest obligation to result from the proposed refinancing over the terms of the debts proposed for refinancing.

2. The proposed contract is preferable to a bond issue because: 1) the total costs of the refinancing are not sufficient to warrant the expenses involved in a General Obligation Bond issue; 2) the projects associated with the existing debts are too expensive to be funded through current revenues and/or fund balance, thus the installment contract method of financing proves to be the best alternative for the City of Marion; the desired term of financing is 7-13 years, thereby making bonds a less desirable alternative.

3. The sum to fall due under the contract will be adequate and not excessive for the proposed purpose and the rate of interest may be only nominally higher than that of a general obligation bond issue, when considering total costs involved in referendum advertisements, legal expenses, etc.

4. The City of Marion's dept management procedures and policies are good because the City of Marion adheres to its Budget Ordinance, and has retired all bonds. The City Manager is constantly monitoring the City's fiscal structure and keeps the Mayor and the City Council apprised of the City's financial condition at all times.

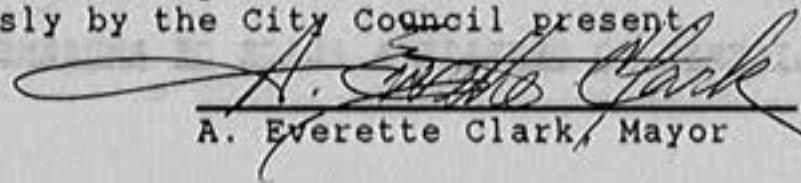
5. The City of Marion has paid in full all debts service obligations. The City's total outstanding dept obligation is only \$3,223,004 which includes the debts proposed for refinancing.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Mayor is hereby authorized to act on behalf of the City of Marion in filing an application with the North Carolina Local Government Commission for approval of the refinancing and other actions not inconsistent with this resolution.

**BE IT FURTHER RESOLVED** that a Public Hearing be held to hear public input on the refinancing of existing debt by the use of an installment financing contract as allowed for under N.C.G.S. 160A-20 for the said refinancing on Tuesday November 21, 1995, at 7:00 p.m. in the Council Chamber in the Marion City Hall, and that the City Clerk is hereby authorized and directed to cause to be published notice of said meeting as by law required.

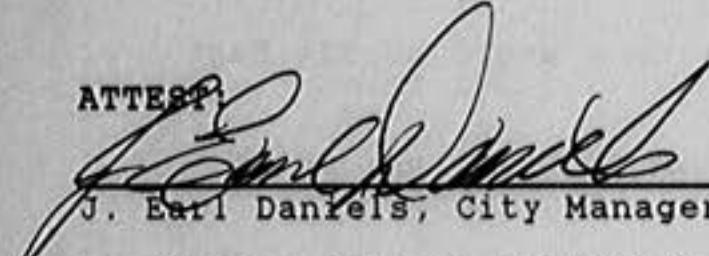
This Resolution is effective upon its adoption this 7th day of November, 1995.

The motion to adopt this resolution was made by Councilman Little, seconded by Councilman Ayers, and passed unanimously by the City Council present



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-11-07-1

**NEW RECORDS LAW:** The City Manager presented Council with a memo from Police Chief Tom Pruett advising that he had recently learned of a change in the N.C. Public Records Law. It used to be that public agencies could make a reasonable charge for copies of public records documents. The City of Marion Police Department has charged \$3.00 for copies of accident reports and criminal incident reports.

It is the Police Chief's understanding according to the Attorney General's Office, that we may now only charge actual costs, copier cost and paper cost.

**ISTEA ENHANCEMENT FUNDS - TREE PLANTING BY-PASS AND SUGARHILL ROAD:** The City Manager presented a letter from Mr. Gordon Myers, a Board Member of the Department of Transportation.

Mr. Myers advised in his letter that he was pleased that the City had agreed to maintain the trees that will be planted at US 221 Bypass (Marion Bypass) and SR 1001 (Sugar Hill Road) interchange in Marion.

**REPORTS:**

**AUCTION REPORT:** The City Manager reported that the Annual Auction held at the Agriculture Barn this year brought in \$15,497.50.

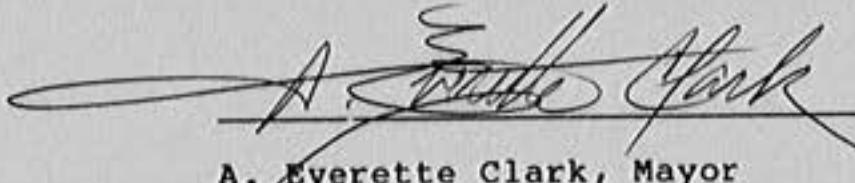
**STORM DRAIN COVER:** Councilman Cuthbertson advised that a concrete storm drain cover located on Broad Street continually is dislodged. Councilman Cuthbertson asked if this cover could not be anchored in some manner. The City Manager asked Public Works Director Glen Sherlin to check into this matter and to correct the problem.

**CHRISTMAS PARADE:** Ms. Freddie Killough advised that the Christmas Parade is scheduled for Sunday, November 19, 1995 at 3:00 P.M.

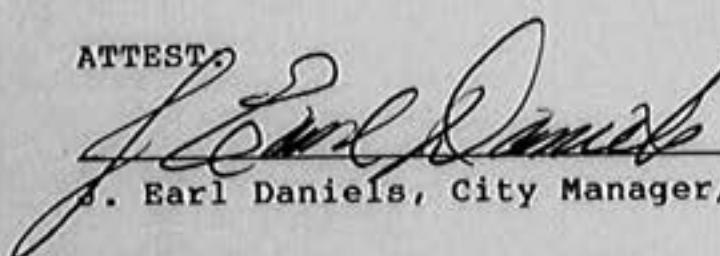
**STREET LIGHT COMPLAINT:** Councilman Little advised that for several weeks one of the street lights located on West Fort Street beside the First Baptist Church is not burning at the time church is dismissed and many people are trying to get to their vehicles. The darkness creates several problems for children and elderly people.

The City Manager instructed Tom Pruett, Chief of Police to contact Duke Power reference this problem.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously to adjourn on November 7, 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, November 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, Lloyd Cuthbertson, Mike Edwards and Steve Little.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Charles Burgin, City Attorney; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruett, Chief of Police; Tom Milligan, Fire Chief; Buck Byrd, Chief Water Filter Plant Operator; Aaron Adams, Street Superintendent; Steve Basney, Water Superintendent; Ron Evans, Building Inspector; Sharon Hogan, Purchasing Agent; Gary McGill, Dennie Martin, and Danny Bridges, McGill Associates; Roger Watson, News Reporter, The McDowell News; Van McKinny, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Council-Elect Billy Martin, 109 Holly Hill Drive Marion, N.C. 28752; Council-Elect Cecil Owenby, 9 Vine Street, Marion, N.C. 28752; Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Jeffrey Evans, 99 Bartlett Road Marion, N.C. 28752; Ann Fortenberry Johnson 329 Park Avenue, Marion, N.C. 28752; Nick Hayes, Marion, N.C. 28752.

**APPROVAL OF NOVEMBER 7, 1995 MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to approve the minutes of the November 7, 1995.

**COMPLAINT - JEFF EVANS:** Mr. Jeff Evans appeared before Council requesting that something be done in the West Marion area before someone is seriously hurt or killed.

Mr. Evans was driving home from a second shift job when a rock was thrown through his car window. Mr. Evans informed Council that had his family been with him, someone may have been injured. He advised that he was told by the Police that they could do nothing without him being able to identify the subject who threw the rock.

Mr. Evans ask that Council do something to make this neighborhood safer.

**USE OF FUND BALANCE - WATER AND SEWER IMPROVEMENT PROJECTS:** The City Manager advised that when work is completed on the Clear-well and the Reservoir the City will have a fund balance of \$500,000 to \$600,000. He advised that he could not give an exact figure until the projects are finally complete and all bills submitted. This fund balance is primarily the result of changing from a Raw Water Lake Project to a new Reservoir Project and the interest earned on investments. The Raw Water Lake project was discontinued based on a report from McGill Associates to the City Council advising that the cost of the project and the cost to meet Dam Safety Regulations were such that the project was not feasible. At that point the City Council decided to construct a new Reservoir to provide additional finished water storage to replace the Raw Water Lake which was to provide for raw water storage.

The City Manager advised that Council needs to vote on how these funds are to be used.

Mr. Danny Bridges and Mr. Gary McGill of McGill Associates were present for this

meeting.

Mr. Bridges provided Council with three project cost estimates for the Catawba River facility upgrade which includes increases in hydraulic capacity to 200,000, 250,000 and 300,000 gallons per day at the existing plant site. The current flow at the plant is approximately 80,000 gpd or 53 percent of the current design capacity. It was Mr. Bridges understanding that additional commercial development is currently being planned near the US 70 and US 226 Bypass on the west side of Marion. There is also continued discussion that the McDowell County School Board is pursuing the option of construction a gravity sewer line from the McDowell County Junior and Senior High schools along US 70 to tie into the City's existing sewer system near the Bypass. The construction of one or both of these along the US 70 west corridor could add an additional 20,000 to 75,000 gallons per day of wastewater to the Catawba River facility. This additional flow would place the facility at 67 to 100+ percent of the existing 150,000 gpd design capacity. The North Carolina Division of Environmental Management (DEM) requires that a Plan of Action be submitted to their office once a wastewater treatment facility reaches 80 percent of design capacity and that technical plans and specifications have to be submitted for DEM's review and approval once 90 percent of design capacity is reached. The City is currently permitted for a discharge from the facility of 250,000 gpd while the plant itself is rated at 150,000 gpd.

Mr. Bridges stated that project cost estimates for upgrading the plant to 200,000 gpd as well as upgrades to 250,000 and 300,000 gpd. They would recommend that the City not consider the increase to 200,000 gpd in light of the fact that the addition of 80,000 gpd would place the City at the 80 percent threshold and thus require plans for additional construction within an apparently short period of time. They would recommend that the City consider an upgrade to at least 250,000 gpd which would allow Marion to increase flow to the facility by 120,000 gpd before any additional action would be required by the City.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted unanimously to use the remaining fund balance from the Water and Sewer Improvements Projects for enlarging the Waste Water Treatment Plant to 250,000 gallon capacity, permitting any remaining balance to be used for water system and/or sewer system improvements.

Councilman Ayers asked that if there are any additional monies available that Council consider helping the McDowell County School System connect to the sewer system by extending a sewerline along Highway 70 to the School property.

#### **PUBLIC HEARING:**

**REFINANCE MUNICIPAL DEBT:** The City Manager opened the Public Hearing and advised that the City is proposing to refinance City debt on the Water and Sewer Improvements Projects, the City Hall Building and the new Fire Station.

He informed those in attendance that a Public Notice giving the time date and location of the Public Hearing appeared in the November 9, 1995 edition of the McDowell News. He advised that there was an error in the Public Notice in the amount of funds reported. The actual amount to be considered for refinancing is approximately \$3,300,000.00. The amount reported in the newspaper was \$3,300.00. The City Manager stated that a news article appeared on the front page of the McDowell News on the 20th of November 1995, entitled **REFINANCING PLAN COULD SAVE CITY OF MARION \$600,000.** He advised that the article explained, in detail, the amounts owed and being considered for refinancing.

The City Manager asked if anyone would like to ask any questions or make any comments concerning the proposed refinancing proposal. There were no questions or comments from those in attendance.

The City Manager introduced Mr. Dennie Martin of Martin/McGill, Inc. Mr. Martin addressed Council with information on the savings of refinancing the debt of the City of Marion.

A summary of the financing proposals received by the City on Monday, November 13, 1995 were presented to Council. A copy of the summary entitled, **CITY OF MARION, NORTH CAROLINA, SUMMARY OF FINANCING PROPOSALS, NOVEMBER 15, 1995**, is hereby attached and made a part of these minutes.

Mr. Martin advised that two refinancing proposals were received. One proposal was received from BB & T Leasing Corporation and One proposal from First Union. Mr. Martin stated that First Union was the superior proposal.

He informed the Council that the life of the individual debts cannot be extended. He advised that by using the First Union fixed interest rate of 4.77% and using the caps on the old debts, that for the life of the debts the City can save on the order of \$700,000, with an immediate, first year cash flow savings of approximately \$21,000.00.

A short discussion followed.

**CITY OF MARION, NORTH CAROLINA**  
**SUMMARY OF FINANCING PROPOSALS**  
**NOVEMBER 15, 1995**

SOURCE OF PROPOSAL	COLLATERAL REQUIREMENTS	DEBTODNES PRINCIPAL	COST OF PROCUREMENT	TERM OF FINANCING	INTEREST TYPE	INTEREST RATE	ANNUAL EBT-SERVIC	TOTAL INTEREST	OTHER INFORMATION
FIRST UNION:	IMPROVEMENTS	3,271,496	NONE	7 and 13 YEAR	FIXED RATE	4.77%		1,065,160.46	EQUAL SEMI-ANNUAL PAYMENTS
YEARS 1 - 7							188,337.47		TITLE DOES NOT PASS, EXCEPT FOR DEFAULT
YEARS 8 - 13							141,660.97		DEED OF TRUST FILED ON CITY HALL/FIRE STATION & RELEASED WHEN FINAL PAYMENT IS MADE ON THIS PORTION OF DEBT.
									NO OTHER COSTS (APRAISALS, SURVEYS, TITLE OR ENVIRONMENTAL) REQUIRED.
									PRE-PAYMENT PENALTY HAS BEEN WAIVED.
									SUBJECT TO APPROVAL BY CREDIT COMMITTEE.
BB&TLC:	IMPROVEMENTS	3,271,496	NONE	7, 8, 10, 13 YR	FIXED RATES AS FOLLOWS:			1,084,762.44	NO PROVISIONS REGARDING PREPAYMENT PENALTIES
YEARS 1 - 7						4.52%	142,332.74		EQUAL SEMI-ANNUAL PAYMENTS
YEAR 8						4.97%	142,332.74		REQUIREMENTS FOR APPRAISAL, TITLE INSURANCE,
YEARS 9 - 10						5.10%	142,711.40		PHASE 1 AUDIT FOR THE CITY HALL
YEARS 11 - 13						10.79%	142,711.40		WILL ADJUST TERMS OF EXISTING DOCUMENTATION FOR THE WATER/SEWER AND FIRE STATION PROJECTS
									NO PRE-PAYMENT PENALTIES.
									RESERVES THE RIGHT TO NEGOTIATE OR TERMINATE BB&TLC'S INTEREST IF BB&TLC IS THE SUCCESSFUL BIDDER

F-2-F

The City Manager asked if anyone had any questions or comments before the Public Hearing is closed.

There were no questions or comments from the general public.

The City Manager announced that the Public Hearing was closed.

**RESOLUTION - APPROVING AN INSTALLMENT PURCHASE CONTRACT AND RELATED MATTERS:**

**RESOLUTION OF THE CITY OF MARION, NORTH CAROLINA APPROVING AN INSTALLMENT PURCHASE CONTRACT AND RELATED MATTERS**

WHEREAS, the City of Marion is a validly existing municipal corporation of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina;

WHEREAS, the City of Marion has the power, pursuant to North Carolina General Statutes, to (1) construct facilities, (2) construct water and sewer improvements and (3) enter into installment purchase contracts in order to finance the construction of facilities used, or to be used, for public purposes;

WHEREAS, the City of Marion has determined and hereby determines, that it is in the best interest of the City to enter into an Installment Purchase Contract in order to refinance three existing debts which have been incurred for (1) water and sewer improvements, (2) the new Marion City Hall Building, and (3) the new Fire Station.

WHEREAS, the City of Marion has determined and hereby determines, that the construction costs of the Projects exceed the appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State.

WHEREAS, the City of Marion has determined and hereby determines that the Contract and the Deed of Trust and the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the costs of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; and (2) the time required for a general obligation bond election would cause an unnecessary delay.

WHEREAS, the City Council did conduct a public hearing on November 21, 1995, to receive public comment on the proposed Contract to refinance these three existing debts.

WHEREAS, the City of Marion hereby determines that all findings, conclusions and determinations of the City in the Resolutions adopted by the City Council on November 7, 1995, are fully affirmed;

WHEREAS, the City's budget process and Annual budget Ordinance is in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with the generally accepted accounting principles in preparing its Annual Budget Ordinance;

WHEREAS, past audit reports of the City indicate that the City has not been censured by the North Carolina Local Government agencies in connection with its debt management and contract obligation payment policies.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARION, NORTH CAROLINA, AS FOLLOWS:**

Section 1. That all actions of the City in effectuating the proposed refinancing are hereby approved, ratified and authorized.

Section 2. That the City approves refinancing of the three debts in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the City in accordance with its terms. The form and content of the Contract are in all respects authorized, approved and confirmed and the Mayor and City Manager are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

Section 3. That the Mayor and City Manager are hereby designated as the City's representatives to act on behalf of the City in connection with the transactions contemplated by the Instruments, and the Mayor and City Manager are authorized and directed to seek opinions as a matter of law from the City Attorney, which the City Attorney is authorized to furnish on behalf of the City. The Mayor and City Manager are authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions, or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

Section 4. That if any section, phrase or provisions of this resolution is for any reason declared to be invalid, such declarations shall not affect the

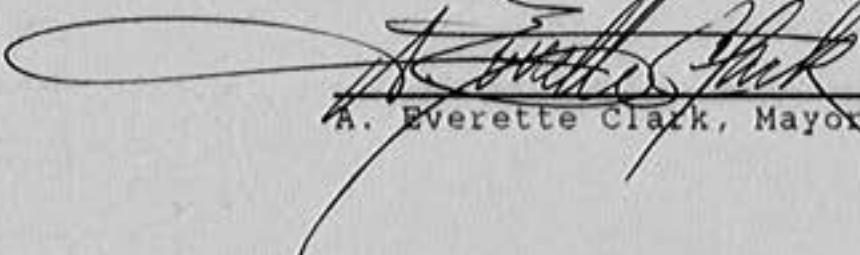
validity of the remainder of the sections, phrases or provision of this Resolution.

Section 5. That all motions, orders, resolutions, ordinances and parts thereof, in conflict herewith are hereby repealed.

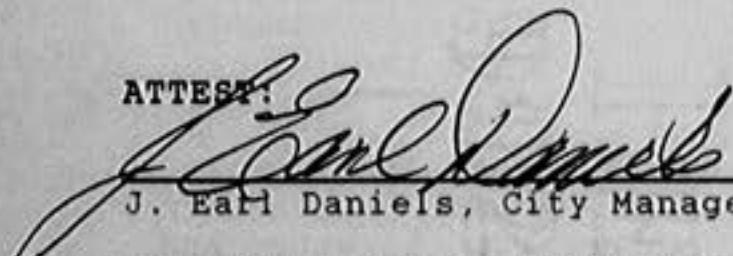
Section 6. This Resolution is subject to the City obtaining approval for the proposed installment financing from the Local Government Commission.

Section 7. That this Resolution shall become effective this November 21, 1995.

The motion to adopt this Resolution was made by Councilman Ayers, seconded by Councilman Little, and passed unanimously by those members of City Council present.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-11-21-1

**REFINANCING PROPOSALS:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted to accept the refinancing proposal submitted by First Union Bank, contingent upon approval of the Local Government Commission of the City's Application For Approval of Installment Purchase Contract.

**RESOLUTION - FINANCING PURCHASE OF FORTENBERRY PROPERTY:** The City Manager informed Council that this matter was discussed at the last Council meeting but that he was directed to place the item on the Agenda for this meeting.

Councilman Edwards stated that since the original agreement on the purchase of the Fortenberry Property is to be null and void, that consideration should be given to not purchase the property or re-negotiate the purchase price.

Councilman Ayers advised that in good conscience, he could not back up on a contract with a man that is dead. He stated that he could not do that in good faith.

Councilman Little stated that the decision to purchase the property had already been made by Council and that the only matter which needs to be resolved is to bring the method of financing in compliance with State Law.

Councilman Little moved the adoption of the following Resolution. This motion was seconded by Councilman Cuthbertson and the vote was as follows:

Councilman Little	Yes
Councilman Cuthbertson	Yes
Councilman Ayers	Yes
Councilman Edwards	No

*Note: This motion included the attached BUDGET AMENDMENT, but this was left out in transcribing the MINUTES. (SEE ORIGINAL MOTION BY COUNCILMAN LITTLE ON PAGE 154. JED.)*

RESOLUTION  
OF THE  
MARION CITY COUNCIL  
NOVEMBER 21, 1995

The City of Marion, at a regular meeting of its governing body, Marion City Council, on the 21st day of November, 1995, adopted and recorded the following Resolution:

**RESOLVED**, that an agreement reached concerning the purchase of property more particularly described in Deed Book 481, page 538, McDowell County Public Registry, and which agreement is evidenced by the Promissory Note and Deed of Trust (see Deed Book 481, Page 542) executed by the City of Marion and delivered to Eloise Fortenberry on October 28, 1994, is hereby rescinded, nullified and voided.

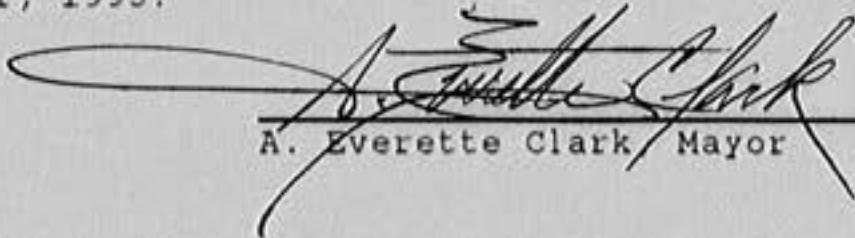
**RESOLVED**, that the Mayor, A. Everette Clark, and the City Manager, J. Earl Daniels, are authorized to deliver to Eloise Fortenberry the sum of \$50,000.00 (representing a "down payment") plus the sum of \$19,576.07 (representing "rental" for the City's use of the subject property since October 28, 1994). The sum of \$50,000.00 shall be applied to the \$225,000.00 purchase price of the subject property; and,

**RESOLVED**, that the Mayor, A. Everette Clark, and the City Manager, J. Earl Daniels, are authorized to execute a Deed of Trust which has as its beneficiary, Eloise P. Fortenberry, and which encumbers the lands described at Deed Book 481 Page 538, McDowell County Public registry. Such Deed of trust shall secure a

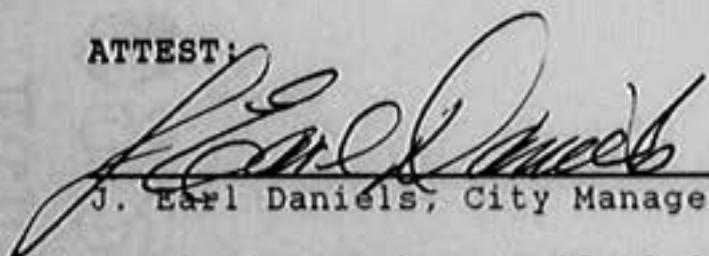
Promissory Note, held by Eloise P. Fortenberry, which shall be in the amount of \$175,000, to bear interest at the rate of 8% per annum. The principal, plus accrued interest, shall be payable annually with the first such annual installment, plus accrued interest, due on or before December 31, 1996, and a like installment of principal, plus accrued interest, due on or before December 31 of each year thereafter until December 31, 1999, at which time the entire unpaid principal balance with all unpaid and accrued interest thereon shall be due and payable in full. Further, the Mayor, A. Everette Clark, and the City Manager,

J. Earl Daniels, are hereby authorized to execute and affix the City's Seal to any and all other documents relating to the financing of said property with Eloise Fortenberry in accordance with the terms above described.

ADOPTED this the 21st day of November, 1995.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-11-21-2

**RESOLUTION - MARION THOROUGHFARE PLAN STUDY:**

**RESOLUTION**

**PASSED BY THE CITY COUNCIL**

**CITY OF MARION, NORTH CAROLINA**

The following resolution was offered by Councilman Ayers, and seconded by Councilman Cuthbertson and upon being put to a vote was carried three to one, on the 21st day of November, 1995:

**THAT WHEREAS**, a thoroughfare planning study is considered to be of utmost importance for the proper development of the highway system of the municipality for the safety and convenience of the traveling public; and

**WHEREAS**, a thoroughfare planning study is a necessary expense of the City of Marion in order to provide for the proper development of its street system and for the safety and convenience of the traveling public; and

**WHEREAS**, an Agreement has been prepared in writing to establish the obligation of the Department of Transportation and the City of Marion in a thoroughfare planning study to update and reevaluate the existing Marion Thoroughfare Plan; and

**WHEREAS**, said Agreement provides that this municipality participate with the Department of Transportation to the extent of:

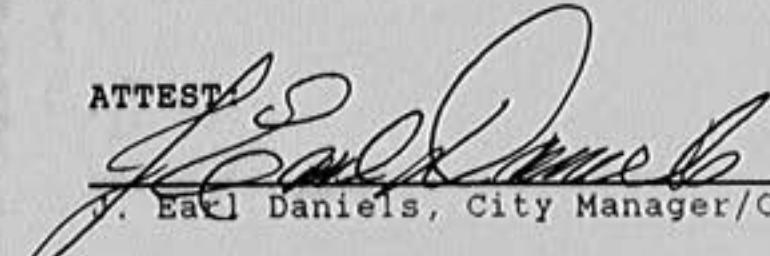
- (1) Cooperating with the Department in the conduct of the project and to make available research materials, data, maps and other records of the municipality; and to arrange meetings of the planning board and/or other municipal officials to review the work carried out under the Agreement and to make such recommendations as are required.
- (2) Sharing in the expenses and cost of the study by providing at no cost to the Department the socio-economic inventories and projections by traffic analysis zone, and an inventory of the major street system for the urban area.

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

That the agreement entitled "AGREEMENT FOR THE PERFORMANCE OF THOROUGHFARE PLANNING STUDY BETWEEN THE DEPARTMENT OF TRANSPORTATION AND THE CITY OF MARION, NORTH CAROLINA" be, and same is hereby approved by the City Council of the City of Marion and the Mayor and City Clerk are authorized and directed to execute and deliver said contract.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-11-21-3

The vote was as follows:

Councilman Ayers	Yes
Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Little	No

**FIREMEN'S RELIEF FUND - BOARD OF TRUSTEES - APPOINT ONE MEMBER:** The City Manager presented Council with a memo from Fire Chief Tom Milligan advising that Councilman Ayers term on the Marion Firemen's Relief Fund Board of Trustees will expire on December 31, 1995.

Mayor Clark stated that he would like to appoint Councilman Mike Edwards to fill this up coming vacancy. Said term to expire December 31, 1997.

Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to appoint Councilman Edwards to a two year term as a member of the Firemen's Relief Fund Board of Trustees.

**AIRPORT - LETTER OF SUPPORT:** Upon a motion by Councilman Ayers, seconded by Councilman Little, those members of Council present voted unanimously for the City Manager to write a letter of support for the proposed Airport in McDowell County.

**CITY ELECTIONS - ABSTRACT OF CANVASSING:** Upon a motion by Councilman Little, seconded by Councilman Ayers, those members of Council present voted to accept the 1995 City Election Abstract of Canvassing submitted by the McDowell County Board of Elections. The Abstract of Canvassing is filed in the safe under document number 656.

Listed below are the names of all candidates.

Robert L. Ayers	152
John Cross	244
Billy S. Martin	392
Brett K. Moore	215
Arthur O'Dear	170
Cecil Owenby	342
Angus Stronach	204
Joe Tyler	214

The above results did not include Absentee ballots.

Mr. Billy S. Martin having received 397 votes and Mr. Cecil M. Owenby having received 367 votes, including absentee votes have been duly elected members of the Marion City Council of the City of Marion, Pursuant to law, for a term of four years.

**DBA - FREDDIE KILLOUGH:** Mayor Clark asked that a letter of appreciation be written to Ms. Freddie Killough, Downtown Business Association Director for all her good work and loyalty to the City of Marion. Many compliments on the new Christmas decorations (snowflakes) and the Christmas Parade have been made.

**REPORTS:**

Councilman Robert Ayers stated that it had been a pleasure serving on the Marion City Council and that he would miss it. Councilman Ayers stated that most of all, he would miss the friendship he has shared with the Board.

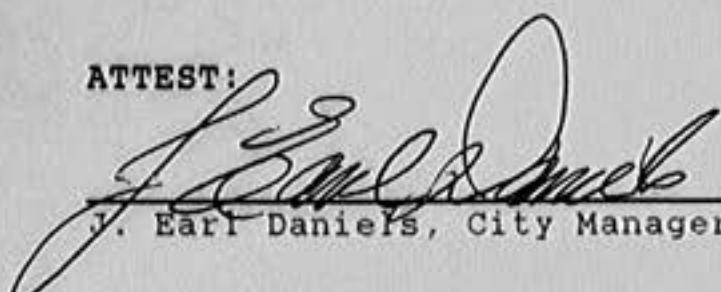
Councilman Ayers also wished the two new Council Members well, who were present for this meeting, as well as the present Board.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Ayers, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to adjourn on November 21, 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 Special Session on Monday evening, December 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, Mike Edwards and Steve Little.

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; and Roger Watson, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mrs. Mike Edwards.

**CALL TO ORDER:** Mayor A. Everette Clark called the meeting to order.

**APPROVAL OF NOVEMBER 21, 1995 MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of the November 21, 1995 meeting.

**PUBLIC HEARING ON REFINANCING CERTAIN MUNICIPAL DEBT:** The City Manager opened the public hearing. He read aloud the Public Notice which appeared in the Friday, November 24, 1995 edition of the McDowell News.

The City Manager advised that a Public Hearing was held by the City Council on November 21, 1995 concerning the same matter; however, as pointed out at that Public Hearing, there was an error in the Public Notice which appeared in the November 9, 1995 edition of the McDowell News. That error was in the amount of funds proposed to be refinanced. The Public Notice stated the amount to be considered for refinancing was approximately \$3,300.00 and the actual amount is approximately \$3,300,000.00. The City Manager advised that he discussed this matter with officials of the Local Government Commission and was instructed that a second Public Hearing would be necessary following a proper notice in the newspaper.

The City Manager stated that the proposed refinancing of City debt included:

1. Water and Sewer Improvements Projects, remaining principal approximately \$2,721,433.01.
2. New Marion City Hall Building, remaining principal approximately \$245,000.00
3. New Fire Station, remaining principal approximately \$305,062.75.

He advised that the total principal proposed to be refinanced is approximately \$3,271,495.76.

The City Manager stated that the life of the individual debts cannot be extended. The present interest rate on the City Hall Building is 5.59%. The present interest rate on the Fire Station is 6.47% and the present interest rate on the Water and Sewer Improvements Projects is 5.1%. He advised that the proposed interest rate on the refinancing is a fixed rate of 4.77% offered by First Union National Bank. He stated that the savings to the City, for the life of the debts is considerable.

The City Manager asked if anyone had any questions or comments regarding the proposed refinancing.

There were no questions or comments.

The City Manager announced that the Public Hearing was closed.

**RESOLUTION - RESOLUTION AUTHORIZING THE EXECUTION OF AN INSTALLMENT FINANCING CONTRACT WITH FIRST UNION NATIONAL BANK OF NORTH CAROLINA AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS:** The City Manager presented the following resolution:

**RESOLUTION AUTHORIZING THE EXECUTION OF AN INSTALLMENT FINANCING CONTRACT WITH FIRST UNION NATIONAL BANK OF NORTH CAROLINA AND AUTHORIZING THE EXECUTION OF RELATED DOCUMENTS.**

**WHEREAS**, the City of Marion is a validly existing municipal corporation of the State of North Carolina, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina; and

WHEREAS, the City of Marion has the power, pursuant to North Carolina General Statutes, to (1) construct facilities, (2) construct water and sewer improvements and (3) enter into installment purchase contracts in order to finance the construction of facilities used, or to be used, for public purposes; and

WHEREAS, the City Council conducted a public hearing on December 4, 1995, to receive public comment on the proposed Contract to refinance the three debts described herein; and

WHEREAS, the City of Marion hereby determines that all findings, conclusions and determinations of the City in the Resolutions adopted by the City Council on November 7, 1995, are fully affirmed; and

WHEREAS, the City's budget process and Annual Budget Ordinance is in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with the generally accepted accounting principles in preparing its Annual Budget Ordinance; and

WHEREAS, the City desires to enter into an Installment Financing Contract, dated as of December 21, 1995 (the "Contract"), between the City and First Union National Bank of North Carolina (the "Bank"), execute a Deed of Trust and Security Agreement, dated as of December 21, 1995 (the "Deed of Trust") to Lynn M. Beckham, as deed of trust trustee, for the benefit of the Bank, and execute a Commitment Letter, dated December 21, 1995 (the "Commitment Letter"), with the Bank; and

WHEREAS, the Contract provides for (a) the Bank to advance certain funds (the "Amount Advanced") to enable the City to refinance the City's obligations under certain existing installment financing arrangements and (b) the City to repay the Amount Advanced in installments (the "Installment Payments"), as provided in the Contract; and

WHEREAS, the City has determined that the use of the Facilities (as defined in the Contract) is essential to its proper, efficient and economic operation; that it anticipates an ongoing need for the Real Property (as defined in the Contract) and the Facilities; that the Real Property and the Facilities will provide an essential use and permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and executing the Deed of Trust is necessary and expedient for the City; and

WHEREAS, the City has further determined that the Installment Payments and all other obligations of the City under the Contract and the Deed of Trust are not excessive for their stated purposes; and

WHEREAS, the City has determined that the Contract, the Deed of Trust and the obligations of the City thereunder are preferable to, and more cost efficient than, a general obligation or revenue bond issue for the same purpose and that the cost of refinancing its obligations under the existing installment financing arrangements exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and nonvoted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State of North Carolina; and

WHEREAS, the City has not been censured by the North Carolina Local Government agencies in connection with its debt management and contract obligation payment policies; **NOW, THEREFORE,**

**BE IT RESOLVED** by the City Council of the City of Marion:

Section 1. That the City approves refinancing of the three debts in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the City in accordance with its terms. The form and content of the Contract are in all respects authorized, approved and confirmed and the Mayor and City Manager are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Contract as executed.

Section 2. That if any section, phrase or provisions of this Resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 3. That all motions, orders, resolutions, ordinances and parts thereof, in conflict with this resolution are hereby repealed.

Section 4. This Resolution is subject to the City obtaining approval for the proposed installment financing from the Local Government Commission.

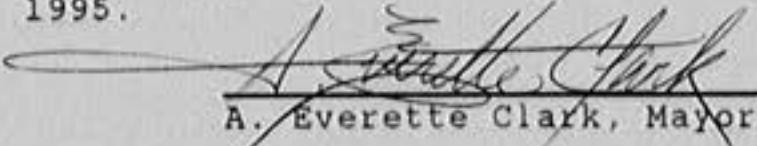
Section 5. The Contract, the Deed of Trust and the Commitment Letter are hereby approved.

Section 6. The officers of the City, jointly and severally, be, and are hereby,

authorized, empowered and directed to execute on its behalf the Commitment Letter, the Contract, the Deed of Trust and any addenda, exhibits, schedules, notes, UCC financing statements or other instruments issued under the provisions of the Commitment Letter, the Contract, the Deed of Trust and any other instrument or document which may be necessary or expedient in connection with the fulfillment of the provisions of the Commitment Letter, the Contract and the Deed of Trust.

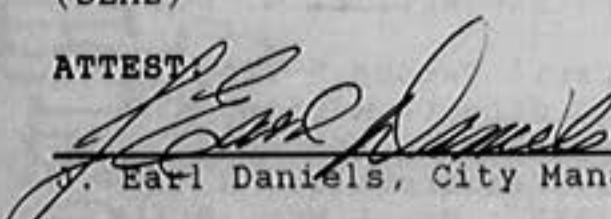
Section 7. This resolution shall take effect immediately upon its passage.

The motion to adopt this Resolution was made by Councilman Little, seconded by Councilman Cuthbertson, and passed unanimously by those members of City Council present on the 4th day of December, 1995.

  
A. Everette Clark, Mayor

(SEAL)

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

RESOLUTION NUMBER: R-95-12-04-01

**COUNCILMAN JOHN CROSS - PLAQUE:** Mayor Clark informed the Council that Councilman Cross would be unable to attend the next regular meeting of Council to be held on Tuesday night, December 5, 1995. He advised that a Plaque had been prepared to be presented to him at that meeting since he would be leaving when the newly elected Council members are installed.

He presented the Plaque to Councilman Cross. The Plaque was engraved as follows:

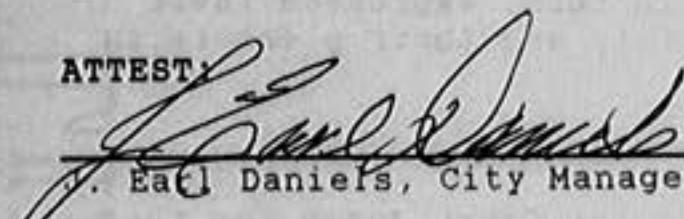
Presented To  
John Cross  
City Councilman  
1987 - 1995  
In Grateful Recognition Of Outstanding Public Service  
Faithfully Rendered To The Citizens  
Of The  
City of Marion, North Carolina  
Presented By Order Of  
The Mayor And City Council  
On This The 5th Day of December 1995

Mayor Clark, each City Councilman and the City Manager, in turn, expressed their appreciation to Councilman Cross for his service to the City and their pleasure in serving with him.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to adjourn on December 4, 1995 at 7:20 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, December 5, 1995 at 6:00 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, Mike Edwards and Steve Little.

Council Cross was not present for this meeting.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Charles Burgin and Penn Dameron, City Attorneys; Roger Watson, News Reporter, McDowell News; Brooks Spaulding, News Reporter, WDLF; Van McKinney, News Reporter, WBRM.

**GUESTS PRESENT:** Mr. & Mrs. Lee Logan 109 Grayson Street, Marion, N.C. 28752; Cecilia O. Stewart, P. O. Box 298, Nebo, N.C. 28761; Townsend Stewart, P. O. Box 298 Nebo, N.C. 28761; Josh Owenby 9 Vine Street, Marion, N.C. 28752; Mr. & Mrs. Cecil Owenby 9 Vine Street, Marion, N.C. 28752; Jonelle Daniels, 445 South Garden Street, Marion, N.C. 28752; Jerry Hunter, P. O. Box 995 Marion, N.C. 28752; Kathy Dameron, Box 8, Lakeview Hills, Nebo, N.C. 28761; Davis Harris 608 Antler Ct, Kernersville, N. C. 27284; Ronnie Burgin, P. O. Box 1507 Marion, Marion, N. C. 28752; Mr. & Mrs. Billy Martin 109 Holly Hill Drive, Marion, N. C. 28752; Ray McKesson 306 Bond Street Marion, N. C. 28752; James Lindsay 402 Woodlawn Street Marion, N. C. 28752; Harold Caviness 206 North Madison Street Marion, N. C. 28752; Loto Greenlee Caviness, 206 North Madison, Marion, N. C. 28752; Tillie Twitty, Marion, N. C. 28752; Johnsie Jackson, Marion, N. C. 28752; Mr. & Mrs. Gerald Hicks Marion, N. C. 28752; Brett & Allana Moore Marion, N. C. 28752.

**APPROVAL OF DECEMBER 4, 1995 MINUTES:** Upon a motion by Council Ayers, seconded by Councilman Little, those members of Council present voted unanimously to approve the minutes of the December 4, 1995 meeting.

**COUNCILMAN ROBERT AYERS - PLAQUE:** Mayor Clark informed the Council that a Plaque had been prepared to be presented to Mr. Ayers since he would be leaving when the newly elected Council members are installed.

He presented the Plaque to Councilman Ayers. The Plaque was engraved as follows:

Presented To  
 Robert Ayers  
 City Councilman  
 1983 - 1995  
 In Grateful Recognition Of Outstanding Public Service  
 Faithfully Rendered To The Citizens  
 Of The  
 City of Marion, North Carolina  
 Presented By Order Of  
 The Mayor And City Council  
 On This The 5th Day of December 1995

Mayor Clark, each City Councilman and the City Manager, in turn, expressed their appreciation to Councilman Ayers for his service to the City and their pleasure in serving with him.

**OATHS OF OFFICE - ELECTED OFFICIALS:**

**BILLY MARTIN** - Loto Greenlee Caviness, Resident Superior Court Judge for the 29th Judicial District administered the Oath of Office to Councilman Billy Martin. The Oath is attached to and made a part of these minutes.

**CECIL OWENBY** - Loto Greenlee Caviness, Resident Superior Court Judge for the 29th Judicial District administered the Oath of Office to Councilman Cecil Owenby. The Oath is attached to and made a part of these minutes.

Copies of the Oaths can be found under legal Document Number 657 in the safe located at City Hall.

**RECOMMENDATIONS - MAYOR PRO TEM:** Mayor Clark asked for nominations for Mayor Pro Tem.

Councilman Cuthbertson stated that Councilman Steve Little had served on the Marion City Council longer than any present member. He nominated Councilman Little to serve as Mayor Pro Tem.

Councilman Owenby stated that Councilman Mike Edwards would make a good Mayor Pro Tem and that he would like to nominate Councilman Edwards to serve as Mayor Pro Tem.

Council chose to have a voice vote. The vote was as follows:

**NOMINEE** **VOTED FOR**

Steve Little - Councilman Cuthbertson  
Councilman Little  
Councilman Martin

Mike Edwards - Councilman Edwards  
Councilman Owenby

Mayor Clark stated that based upon the vote, Councilman Little would serve as Mayor Pro Tem.

**APPOINTMENT - CITY CLERK/FINANCE OFFICER:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to appoint City Manager, J. Earl Daniels, as City Clerk and Finance Officer. Judge Loto Greenlee Caviness administered the Oath of Office to J. Earl Daniels. The Oath is attached to and made a part of these minutes.

**OATHS OF OFFICE:** Mr. Charles Burgin, and Mr. Penn Dameron, City Attorney's were administered the Oath of Office by Judge Loto Greenlee Caviness. The Oaths are attached to and made a part of these minutes.

Copies of the Oaths can be found under legal Document Number 657 in the safe located at City Hall.

**COMMITTEE APPOINTMENTS:** Mayor Clark asked the City Manager if he had a listing of all the Committees for Council Members to review. The City Manager advised that he did not have a listing and description of responsibilities but would be happy to review that information with Council. The Mayor asked that the City Manager compile information on the different Committees and provide the information to Council for their review. Mayor Clark asked that Council Members review the materials which will be sent out by the Manager and then advise on which Committees they would be most interested in serving.

Councilman Owenby stated that he was surprised this information had not already been provided to Council.

**RESOLUTION - HONOR AND APPRECIATION - PAT DAVIS:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

**RESOLUTION**  
HONORING D. PAT DAVIS  
FOR HIS SERVICE ON THE MARION BOARD OF ALDERMEN  
FROM MAY 13, 1947 TO MAY 22, 1967

**WHEREAS**, D. Pat Davis was elected to The Marion Board of Aldermen in May, 1947, and served continuously from that date to May 22, 1967, and

**WHEREAS**, D. Pat Davis served continuously as Mayor Pro-Tem from 1953 to 1967, and

**WHEREAS**, his twenty (20) years of service was a period of significant growth and progress for Marion and involved much far-sighted planning and preparation to accommodate future growth; and

**WHEREAS**, D. Pat Davis performed his duties as a member of the Marion Board of Aldermen with the utmost dedication and integrity and contributed significantly to the success of programs to benefit the citizens of Marion; and

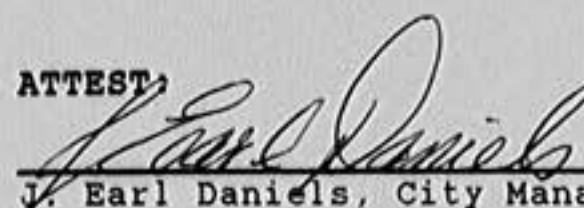
**WHEREAS**, D. Pat Davis served as a Marion Volunteer Fireman from July 1943 to June 1971.

**NOW THEREFORE, BE IT RESOLVED** that the members of the City Council of Marion, North Carolina, express to D. Pat Davis their appreciation, and the gratitude of his fellow citizens, for his outstanding contributions in serving the citizens of Marion.

ADOPTED this the 5th day of December, 1995.

  
A. Everette Clark, Mayor

ATTEST,

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-95-12-05-1

**COMMENTS:** Councilman Edwards suggested that some type of plaque be placed in City Hall with the name and term of Office of everyone who had held an elected position in the past for the City of Marion.

**MARION POLICE DEPARTMENT - CLICK IT OR TICKET AWARD:** The City Manager advised that the Marion Police Department has earned \$15,000.00 for their Department.

Each year, the Governor's Highway Safety Program sponsors the law Enforcement Challenge, which provides incentives for local officers to go after violators of the Click It or Ticket and Booze It and Lose It Campaigns.

Chief Pruett stated that he will buy some extra equipment for the department including video systems for the patrol cars that monitor traffic stops, instruments to perform roadside sobriety tests, a spare radar unit and pocket tape recorders for each officer. This gives the department an opportunity to have a wish list in order to get extra law enforcement equipment.

**CABLE TV FRANCHISE - MR. DAVE HARRIS:** The City Manager introduced Mr. David Harris, Vice President with Customs Communications out of Kernersville, North Carolina.

The City Manager advised that Mr. Harris has some expertise in the area of Cable TV Franchises. He recommended to Council that consideration be given to entering into a contract with IPDC for Mr. Harris to assist in preparation of a new Cable Franchise agreement with Intermedia, due to the complexities involved regarding changing FCC Regulations. Mr. Harris briefed Council on his experience and procedures to be followed in preparing a new franchise.

Custom Communications has a contract with Isothermal to administer cable related activities within the region. Mr. Harris has discussed the situation in Marion with IPDC Representative, Glenn Rhodes.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to enter into the following contract with Isothermal:

**CITY OF MARION**

**CONTRACT**

The City of Marion (City) agrees to enter into a contract with the Isothermal Planning and Development Commission (Commission) through its consultant Custom Communications (Custom), a singly owned communications advisory company with principals being, June P. Harris, President and David H. Harris, VP, Operations/Finance, located at 608 Antler Court, Kernersville, North Carolina 27284. Custom agrees to provide to the City the following services:

**Franchise Renegotiation:**

Complete analysis of the current cable TV franchise agreement and CATV enabling ordinance

Meet with manager and franchise authority representative to discuss plan of action

Meet with cable operator(s) to examine "in place" system and discuss future expansions

Present City Manager with a time line and recommended changes/additions to the cable franchise agreement

Meet, as required, with local citizens at an announced meeting to determine local needs

Pull all of the ideas together and prepare a draft agreement

Meet with cable operator to discuss draft

Meet with manager to discuss draft

Pull all of the changes together and present "straw man" to franchise authority

Review comments from "straw man" and prepare final draft

Present final draft (all problems ironed out) at a public hearing of the franchise authority

Follow-up as needed

**Billing Rates and Methods:**

Travel will be billed at \$25.00 per hour plus \$.30 per mile and meal expenses when traveling to and from meeting or discussion locations.

Meetings will be billed at \$60.00 per hour.

Preparation time will be billed at \$60.00 per hour.

Preparation of or renegotiation of a franchise agreement or enabling ordinance will be billed at \$60.00 per hour.

Statement of services performed each month, beginning the month of City approval, will be forwarded to the City Manager by the Commission for payment. Terms are net 30 days.

Total not to exceed \$4,750.00 for franchise renegotiation.

Within 30 days of City approval of this contract, Custom agrees to meet with the City Manager or his representative and Cable representative, provide the City Manager with a time line of completion and recommend dates for meetings with interested citizens of the City.

Either party may terminate this contract upon 30 days prior written notice.

Agreed to as of \_\_\_\_\_, 1995.

For Isothermal Planning and Development Commission \_\_\_\_\_

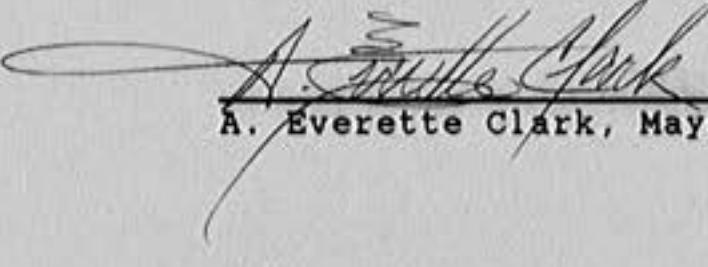
For the City of Marion \_\_\_\_\_

**ABC BOARD - APPOINT ONE MEMBER TO FILL UNEXPIRED TERM OF MR. BILLY MARTIN:**

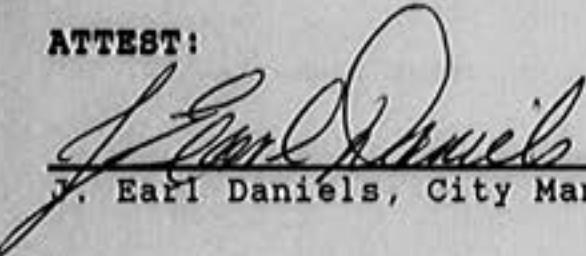
Councilman Martin advised that he would like to resign from his position on the ABC Board and ask that Harvey Parker be appointed to fill his unexpired term. Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to appoint Mr. Harvey Parker to fill the unexpired term of Councilman Billy Martin.

Said term will end in April 1998.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to adjourn on December 5, 1995 at 7:05 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 Thursday, December 28, 1995 at noon in the Conference Room located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager and Roger Watson, News Reporter, The McDowell News.

**WESTWOOD CHATEAU DRIVE - ACCEPTANCE FOR MAINTENANCE:** The purpose of the called meeting was to consider the acceptance of a portion of Westwood Chateau Drive as a City Street. The City Manager review with Council the content of a letter from Attorney Mia Lorenz of the Law Offices of Dameron and Burgin. The letter commented on the preliminary title opinions prepared by James Goldsmith concerning the Drive. It was suggested that it would be in the City's best interest for B & J Chevrolet to assign their leasehold interest in the roadway to the City. The City Manager stated that he had discussed this matter with Mr. Cook and he agreed to comply with this request. The letter also stated that the title search concerning the Cook's property extends to March 30, 1976 and not for the customary

thirty years. Other comments were stated, including a sewerline located in the street, a sidewalk and roof over-hang which may encroach on the roadway.

A short discussion followed.

Councilman Edwards made a motion that the City accept that portion of Westwood Chateau Drive as shown on a survey entitled, "SURVEY OF A PORTION OF THAT STREET KNOWN AS WESTWOOD DRIVE FOR INCLUSION IN THE MARION CITY STREET SYSTEM BEING A PORTION OF THE FOLLOWING PROPERTIES

LENLEE, INC.

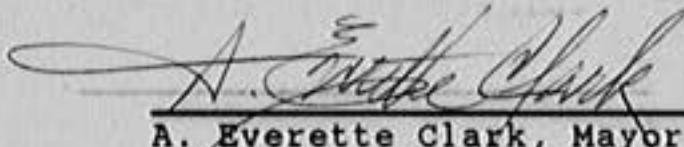
DEED BOOK 449, PAGE 580

JAMES T. COOK AND WIFE, CAROLYN COOK

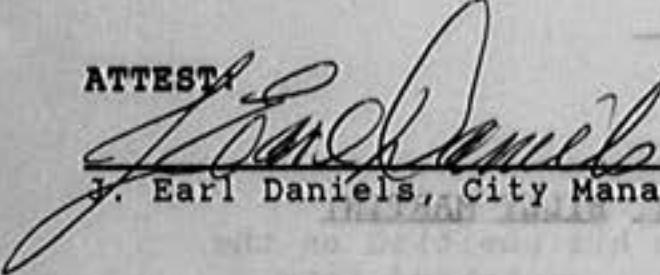
DEED BOOK 483, PAGE 205

by R. L. Greene Surveying and Mapping dated August 28, 1995" and that the necessary legal documents be recored and that the street be added to the City's Powell Bill Map. This motion was seconded by Councilman Cuthbertson and all Council members voted in the affirmative.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the meeting was adjourned at 12:31 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 Special Session on Thursday, December 28, 1995 at noon, in the Conference Room at City Hall, located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Cecil Owenby, Billy Martin, Lloyd Cuthbertson, Mike Edwards and Steve Little.

OTHERS PRESENT: J. Earl Daniels, City Manager; and Roger Watson, News Reporter, The McDowell News.

CALL TO ORDER: Mayor A. Everette Clark called the meeting to order.

WESTWOOD CHATEAU DRIVE: The City Manager informed the Council that the purpose of the meeting was to consider acceptance of Westwood Chateau Drive as a City street. He presented a letter from Margaret A. Lorenz, Attorney with the Law Offices of Dameron and Burgin. The letter advised that preliminary title opinions had been prepared by James Goldsmith. The Lenlee, Inc. property examination appeared to be satisfactory; however, significant points of interest in the preliminary opinion concerning Cooke's property examination were:

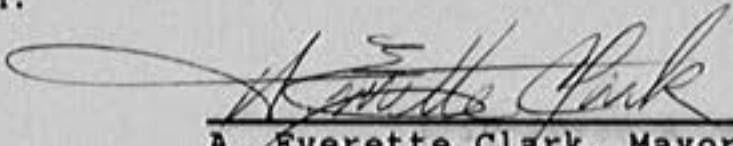
1. James and Carolyn Cook have leased their property (including the Roadway) to B&J Chevrolet-Buick, Inc.
2. The search concerning the Cook's property extends to March 30, 1976. Customarily, a title examination encompasses at least thirty years.
3. The Grant of Easement recorded at Deed Book 336, Page 854, McDowell County Public Registry, is between Ballew, the prior owner of Cook's tract, and GSS Properties, Inc. and Lextex Realty Corp. The easement refers to a sewer line and an existing building which encroach upon the lands described as the Northern boundary line of property currently owned by Cook which comprises the Plaza Drive or Westwood Driveway.

The City Manager informed Council that he had asked Mr. Cook if B&J would assign their leasehold interest in the roadway to the City. He advised that Mr. Cook agreed to do this.

A discussion followed.

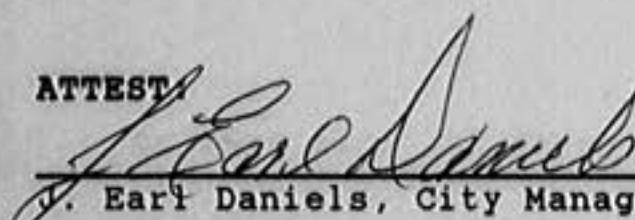
Councilman Edwards made a motion that the City accept the transfer of the roadway known as Westwood Chateau Drive as a City Street, as shown on a survey prepared by R. L. Greene Surveying and Mapping under date of August 28, 1995 and entitled SURVEY OF A PORTION OF THAT STREET KNOWN AS WESTWOOD DRIVE FOR INCLUSION IN THE MARION CITY STREET SYSTEM BEING A PORTION OF THE FOLLOWING PROPERTIES - LENLEE, INC. DEED BOOK 449, PAGE 580, - JAMES T. COOK AND WIFE, CAROLYN COOK, DEED BOOK 483, PAGE 205 and that the street be added to the City's Powell Bill Map. This motion was seconded by Councilman Cuthbertson and all Councilmen present voted in favor of the motion.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the meeting was adjourned at 12:31 P.M.

  
A. Everette Clark, Mayor

STAC

ATTEST

  
J. Earl Daniels, City Manager/Clerk

NOTIFICATION

EST. 10

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 2, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Steve Little, Billy Martin and Cecil Owenby.

Councilman Edwards arrived for this meeting at 7:05 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Jim Issacs, City Auditor, Johnson, Price & Sprinkle.

**GUESTS PRESENT:** Mr. & Mrs. Robert Gourley 115 Broad Street, Marion, N. C. 28752; Alvin Callahan Lake Tahoma Road, Marion, N. C. 28752; Patty Witaker Family Services, P.O. Box 1572 Marion, N. C. 28752; Johnsie Jackson, Marion, N. C. 28752; Tillie M. Twitty, Marion, N. C. 28752; Chineeta McGuire, 110-Catawba Street, Marion, N. C. 28752; Sandra Epperson, MACA, Marion, N. C. 28752; Woody Killough, South Main Street, Marion, N. C. 28752.

**APPROVAL OF DECEMBER 5, 1995 AND DECEMBER 28, 1995 MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of the December 5th and 28th meetings.

**SPECIAL RECOGNITIONS:** Mayor Clark advised that Mr. Alvin Callahan and Mr. Arthur O'Dear were both invited to attend this City Council Meeting. A Resolution from The North Carolina League of Municipalities honoring these two Gentlemen was mailed to the City of Marion.

Mayor Clark presented Mr. Alvin Callahan with the following Resolution:

RESOLUTION

of the

NORTH CAROLINA LEAGUE OF MUNICIPALITIES

WHEREAS, Alvin E. Callahan retired during the past year, after serving the City of Marion faithfully and well for 20 years; and

WHEREAS, Alvin E. Callahan 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 16th day of October 1995, that the delegates do hereby honor Alvin E. Callahan, former Public Works Director/Building Inspector and Building Inspector 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 Alvin E. Callahan and to the City of Marion.

David E. Reynolds  
Attest: Executive Director  
DATE: October 16, 1995

Neal S. Cohen  
President

Resolution Number: R-96-01-02-1

Mayor Clark stated that Mr. Arthur O'Dear could not be present for this meeting and that the following Resolution will be mailed to him:

RESOLUTION

of the

**NORTH CAROLINA LEAGUE OF MUNICIPALITIES**

WHEREAS, Arthur E. O'Dear retired during the past year, after serving the City of Marion faithfully and well for 20 years and 8 months; and

WHEREAS, Arthur E. O'Dear 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 16th day of October 1995, that the delegates do hereby honor Arthur E. O'Dear, 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 Arthur E. O'Dear and to the City of Marion.

David E. Reynolds  
Attest: Executive Director  
DATE: October 16, 1995

Neal S. Cohen  
President

Resolution Number: R-96-01-02-2

**CITY AUDIT - JIM ISSACS, REPRESENTATIVE OF JOHNSON, PRICE & SPRINKLE:** Mr. Issacs presented Council with a brief report on the 1995-1996 City Audit. Mr. Issacs advised that the audit was completed in accordance with State requirements. He informed Council that the City was in good financial condition.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the Audit.

**MACA - REQUEST TO PAINT MURAL ON THE INSIDE SOUTH WALL IN THE BASEMENT OF THE COMMUNITY BUILDING:** Ms. Sandra Epperson appeared before Council requesting permission for the art teacher and her students to paint a mural on the south wall, in the basement, of the Community Building. Cal-Tone Paints is donating paint to S.O.S. programs in the state, and will contribute enough colorful paint to paint the mural, as well as enough paint to re-paint the wall if and when S.T.A.Y. leaves the premises.

Several Council Members showed concern regarding what type of art would be displayed on this wall.

A discussion followed.

Council advised Ms. Epperson that they would prefer a painting of a landscape or something similar as opposed to an abstract painting. Council advised that the painting must be in good taste.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted

unanimously to approve this request.

**FAMILY SERVICES - C. PATRICIA WHITAKER:** Ms. Patricia Whitaker appeared before Council to introduce herself as the new Executive Director over Family Services.

Ms. Whitaker had previously asked the City Manager and Chief of Police permission to solicit contributions for their organization out in the street at traffic light intersections. She informed Council that she has since decided that this is a very dangerous activity.

A discussion followed.

Ms. Whitaker also ask that Council look favorably at making a contribution to the Family Services.

**ROBERT GOURLEY - REQUEST TO WITHDRAW FROM THE DBA SERVICE DISTRICT:** Mr. Robert Gourley appeared before Council requesting that he be allowed to voluntarily drop out of the Downtown Municipal Tax District.

Mr. Gourley informed Council that he was not opposed to the DBA and thought they had done a good job on Main Street. He advised that his property was on North Garden Street and the value had been increased so that his payment to the DBA had almost doubled. He told the Council that he thought he volunteered to get in and he thought he could volunteer to get out.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to hold a Public Hearing on February 20, 1996. The purpose for the Public Hearing will be to have input from the Downtown Merchants, and the property owners, concerning the future of the Municipal Tax District.

**NORA ARROWOOD - REQUEST FOR FIREARM:** A letter was presented to Council from former Police Officer Nora Arrowood requesting her service firearm.

A discussion followed.

It was agreed that the City needed a policy concerning officers being allowed to purchase their hand guns upon retirement.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to refer this matter to the Police Committee for a recommendation.

**NO PARKING ORDINANCE - LOGAN STREET:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION  
TRAFFIC SCHEDULE  
NO PARKING ZONES  
SOUTH LOGAN 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. CODE	1982 TYPE	REG. APP.	REG. LIMIT	REGULATION APPLICATION
LOGAN, SOUTH	18-239	101	PARKING	PROHIBITED	WEST SIDE, BEGIN AT THE N W CORNER OF INTERSECTION OF W COURT AND LOGAN, EXTENDS 200 FT. IN NORTHERLY DIRECTION.

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

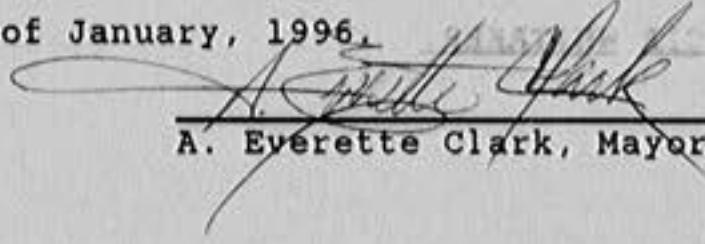
Section 3. This Ordinance shall be in full force and effect upon its adoption.

Section 4. The Parking Ordinance prohibiting Parking on the west side of South Logan Street, beginning at the N W Corner of the intersection of W Court and Logan and extending 48 feet in a northerly direction, is hereby repealed.

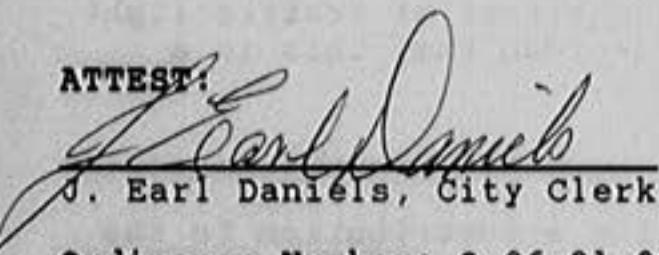
Section 5. The Parking Ordinance limiting parking to 15 Minutes on the west side of South Logan Street, beginning at 48 feet north of N W Corner at the intersection of W Court and Logan and extending 154 feet in a northerly direction,

is hereby repealed.

ADOPTED this the 2nd day of January, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Clerk

Ordinance Number: O-96-01-02-01

**NO PARKING ORDINANCE - WESTWOOD CHATEAU DRIVE:** Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION  
TRAFFIC SCHEDULE  
NO PARKING ZONES  
WESTWOOD CHATEAU DRIVE

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

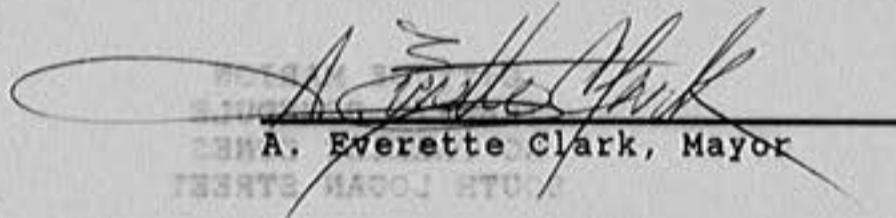
Section 1. That Section 18-239 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

STREET NAME	SEC. CODE	1982 TYPE	REG. LIMIT	REGULATION APPLICATION
WESTWOOD CHASEAU DRIVE	18-239	101	PARKING	PROHIBITED EITHER SIDE, LENGTH OF ROAD ON CITY SYSTEM

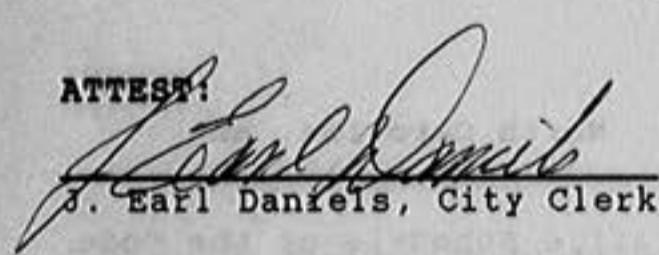
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

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

ADOPTED this the 2nd day of January, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Clerk

Ordinance Number: O-96-01-02-2

**BICYCLE RACK - REQUEST TO PLACE ON MAIN STREET IN FRONT OF LEISURE PLAY PALACE:** The City Manager advised that he had received a request that a bicycle rack be placed in front of Leisure Play Palace on Main Street. He advised that there were complaints concerning bicycles being parked on the sidewalk.

A discussion followed.

Council agreed to refer this request to the Street Committee.

**ADVANCE SICK LEAVE - PROPOSED POLICY:** The City Manager advised that on several occasions over the years, advance sick leave had been requested by some City Employees. The City Manager informed Council that it is difficult for an employee who has saved their sick leave over the years, to then have a major illness or operation, be confined in a hospital, and then have all the problems that come with reduced income. He advised that the City only provides approximately 5 days a year sick leave.

The City Manager informed Council that Councilman Owenby had suggested that the City look into some additional disability insurance coverage that can be paid for by the employees, to cover such problems. The Manager said he thought that was a good idea but was not sure how many employees would apply for the insurance.

A discussion followed.

Council agreed to discuss this matter at the upcoming planning session.

**COMMITTEE ASSIGNMENTS:** The City Manager advised that Council had been presented with a list of Committee Appointments in a Memorandum from Mayor Clark.

STREET COMMITTEE: POLICE COMMITTEE: FIRE COMMITTEE:  
Councilman Martin Councilman Owenby Councilman Edwards  
Councilman Owenby Councilman Cuthbertson Councilman Little

UTILITY COMMITTEE: RECREATION COMMITTEE:  
Councilman Cuthbertson Councilman Martin  
Councilman Little Councilman Cuthbertson

CEMETERY COMMITTEE: SAFETY COMMITTEE:  
Councilman Edwards Councilman Cuthbertson  
Councilman Owenby

TREE COMMITTEE: GRIEVANCE COMMITTEE:  
Councilman Owenby Councilman Little

NOMINATING COMMITTEE: COUNCIL ON AGING COMMITTEE:  
Councilman Edwards Councilman Edwards  
Councilman Martin

The Mayor's Memorandum continued by stating:

"Please be advised that Committees meet only at the direction of the City Council in Session.

There are five exceptions which I will explain. 1) The Safety Committee meets on a monthly schedule and only one Council Member serves on that Committee. 2) The Tree Committee meets on a quarterly basis and only one Council Member serves on that Committee. 3) The Grievance Committee meets at the request of the City Manager to take care of personnel problems. Personnel Matters which cannot be resolved by the Grievance Committee are presented to Council upon request of the person having the problem. 4) The Fire Committee meets and serves as members of the Board of Trustees for the Firemens Relief Fund. 5) The Council on Aging is a new committee appointment. They are requesting that a Councilman be appointed to meet with them since the County has a Commissioner which meets with them. They also meet on a regular schedule.

In the event of an emergency, it may be necessary for me to call a Special Meeting of a Committee. If that should occur, I will see that each Councilman is fully informed about the matter.

The City has policies which cover just about every operation; however, some citizens, effected by such policies, sometimes make requests for policies to be changed. Those requests are presented to Council by the City Manager or some member of staff. Council can either take direct action on the request or refer it to the proper committee for further study and recommendations for Council action.

Please understand that Ordinances are laws that have to be followed to the letter by staff until changed by Council. Even though City employees may agree with a citizen concerning a certain matter, the employee still has to comply with the Ordinance.

Committees will generally meet at the City Hall; however, it is sometimes necessary to go into the field to look at some matters.

The City Manager is directed to meet with all committees except those that meet on some regular schedule with other groups."

**REQUEST FOR ASSISTANCE - WATER LEAK - VIRGINIA ROAD:** The City Manager advised that a resident on Virginia Road had called him concerning a water bill she had received for over two hundred dollars and that her average bill runs around \$35.00. The Manager informed Council that there is a leak in the water line.

The resident is requesting that the City of Marion repair their water line which runs some 1200 feet from their residence to the water meter at the main water line. The line runs along the street right-of-way and is a private water line. Council was advised that the water line could have been damaged by City contractors working in the area.

Upon a motion by Councilman Martin, seconded by Councilman Little, Council voted unanimously to assist in finding and repairing this leak as it is located in the street right-of-way.

**ANNUAL PLANNING SESSION:** The City Manager advised that a date and time needed to be discussed for the planning session.

A discussion followed.

Council agreed to meet on Friday evening January 26, 1996 at 7:00 P.M. and again on Saturday Morning January 27, 1996 at 8:00 A.M.

**ANNUAL CONGRESSIONAL CITY CONFERENCE - WASHINGTON D.C.:** The City Manager advised that reservations need to be made for members who plan to attend the meeting in Washington D.C.

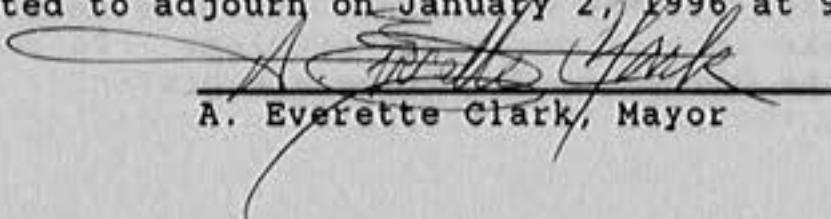
Councilman Owenby advised Council that he would like to go on record as being opposed to spending tax payers money for City Officials to go on trips and would like other members to express their opinions.

Councilman Little advised that he serves on an advisory committee for the National League of Cities and has an obligation to attend the meetings. He informed Council that it is important that someone attend these meetings to speak up on behalf of not only the City of Marion but other small communities who are adversely affected by decisions made in Washington. He continued by stating that the City of Marion was one of the first, if not the first city in North Carolina to complain about unfunded mandates. He advised that he had positioned himself near a microphone at a meeting of the National League and advised thousands of representatives from communities all over the United States that "one size shoe does not fit everybody". He advised that this simply means that every city in the U.S. can not meet the very same regulations.

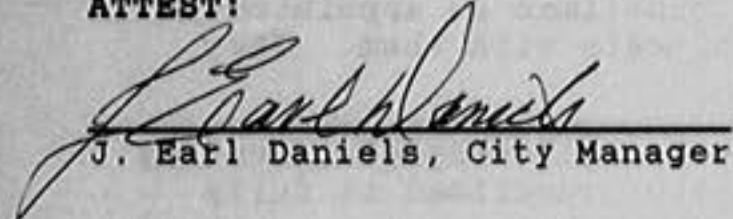
Mayor Clark stated that he too serves on a committee for the National League of Cities. He advised that he is one of two representatives from North Carolina that serves on the Small Cities Advisory Committee. He advised that decisions made effect every city in the U. S. He continued by stating that he also serves as a member of the Board of Directors for the North Carolina League of Municipalities. That group makes important decisions that effect every city in North Carolina.

The City of Marion is well represented at meetings of the North Carolina League of Municipalities and the National League of Cities.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted to adjourn on January 2, 1996 at 9:30 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

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 16, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Tom Pruett, CHIEF of Police; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell

News; Bill Shaw, WDLF Radio; Mr. David Harris, Cable TV, Representative of Isothermal Planning and Development Commission.

**GUESTS PRESENT:** Garland B. Franklin 234 Spring Street, Marion, N.C. 28752; Ralph McCoy 208 2nd Street East Marion N.C. 28752; Wayne Sprouse, 313 3rd Street, East Marion N.C. 28752; James Presnell, 244 Ridge Road, Marion, N.C. 28752; Hugh Ellis, 820 Oak Street, Marion, N.C. 28752; Mrs. David Harris, 608 Antler Ct., Kernersville, N.C. 28752; Johnsie Jackson, 110 Catawba Street, Marion, N.C. 28752; Melvelly Berders P.O. Box 2260 Marion, N.C. 28752; Chineeta McGuire 110 Catawba Street, Marion, N.C. 28752; Tilly Twitty, Marion, N.C. 28752; Wayne Ollis, InterMedia, Marion, N.C. 28752; Bill Wiseman, P.O. Box 848 Marion, N.C. 28752; Carl Helms, 111 2nd Street, Marion, N.C. 28752; Wayne Sprouse 313 3rd Street Marion, N.C. 28752; Robin Hood 100 Hillview Street Apt. # 15 Marion, N.C. 28752; Dean Walker 132 North Garden Street Marion, N.C. 28752; Yvette Logan 109 Grayson

Street Marion, N.C. 28752; Leo Logan 109 Grayson Street Marion, N.C. 28752; Alice Logan 109 Grayson Street Marion, N.C. 28752; Katie Martin, Route 1, box 205 Old Fort, N.C. 28762; Maurice Moore, Marion, N.C. 28752 Jason Wilson, Marion, N.C. 28752; Jerry Hunter Marion, N.C. 28752.

**PUBLIC ADDRESSES TO THE BOARD:**

**BILL WISEMAN - WATER TAP FEE:** Mr. Bill Wiseman came before Council to request one or more additional meter services at less than the present connection fees. Mr. Wiseman made application on September 14, 1987 for a two (2) inch water tap to provide water service to a building he had purchased and made into apartments. He was advised by a City Official that the 3/4 inch line serving the building would not be sufficient to serve several apartments. Mr. Wiseman choose to have installed a two (2) inch tap knowing that in the near future he would be constructing additional apartments.

Mr. Wiseman stated that he called about getting a meter service for a mobile home to be served by the two inch service and was told that a 3/4 inch meter connection costs \$1,100.00. He informed the Council that he thought that he would only have to pay for the meters since he had already paid for a two inch service.

Mr. Wiseman stated that he was not before City Council to ask for a handout. He just wants the meter services based on his understanding of the agreement.

The City Manager advised that there is no Agreement on file at City Hall. He stated he could not remember discussing this matter with Mr. Wiseman but certainly could have. He stated that letters are given by the City when individuals are entitled to free or reduced connection fees for granting easements or rights-of-way to the City.

Mr. Glen Sherlin was present for this meeting and advised that he has no recollection of any verbal or written Agreement with Mr. Wiseman.

Councilman Mike Edwards stated that a paragraph in a memo from the City Manager read as follows: "It may be that Alvin or Glen may have told Mr. Wiseman that a two (2) inch service would be adequate to handle fifteen (15) or twenty (20) apartments, meaning the flow of water would be sufficient. Mr. Wiseman may have taken that to mean that by paying for the two (2) inch service he would be entitled to that many meters."

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, Council voted unanimously to grant Mr. Wiseman a total of two (2) 3/4 inch taps at a cost of five hundred dollars each with any additional taps at the standard rates charged by the City.

The City Manager will issue two (2) letters to Mr. Wiseman, to be used when applying for the connections.

**PUBLIC HEARING:**

**CABLE FRANCHISE CONTRACT:** The City Manager opened the Public Hearing. Mr. David Harris, who is assisting the City of Marion with negotiating a franchise agreement between the City of Marion and InterMedia, was introduced to the Public. The City Manager advised that Mr. Harris would conduct the Public Hearing.

Mr. Harris discussed the procedure of renewing a franchise contract.

A discussion followed.

Mr. Harris gave the public opportunity to express what they want and need from their cable TV service.

One Citizen stated that he paid extra money for Movie Channel 19 (Cinimax). He stated that a Pager System is constantly interfering with the reception of the channel.

He feels that when you pay extra for a channel, you should at least get service without interference.

Mr. Dean Walker asked if QVC paid Intermedia to air their program. He was advised that QVC does pay to be on the system. Mr. Walker suggested that this be one of the paid stations offered to the customers.

Mr. Walker was also concerned with a statement made by Mr. Harris that the City had to re-negotiate a new contract with InterMedia. Mr. Walker advised that this statement is absolutely not true. He informed Council that Citizens have several options for Cable TV Service.

Mr. Wayne Ollis, Local Manager of InterMedia stated that he knows the City has other options.

Mr. Maurice Moore, acting as Spokesperson for many Citizens, explained the many steps taken to get BET (Black Entertainment Television) to the Community. He stated that he has a petition with three hundred and twenty eight

(328) signatures on it and has presented it to Mr. Wayne Ollis requesting this station.

A discussion followed.

Several Citizens made requests for such stations as a local station to broadcast Local Government and Education. Other channels like A&E (Arts and Entertainment), the History Channel and SportSouth were also mentioned.

Another area discussed by the Citizens was cost of Cablevision. Citizens want more channels without higher rates.

Council Members stated that InterMedia had to meet the demand of the people or there service would not be needed.

Councilman Edwards stated that he would just as soon "shut'er down" if we don't get what we want.

Councilman Little stated that we have to have something to meet our needs or tell InterMedia to take a Hike.

Mayor Clark stated that a rebuilt, expanded system will be a requirement of any new franchise agreement. We want this system rebuilt. We want it expanded. We want to see the other channels other communities are getting, and we want it for a comparable price.

A discussion followed.

The City Manager advised that since the City will be re-negotiating for a new Franchise Agreement with Intermedia, they might be more receptive to putting the BET channel on almost immediately, even if it does cost them to do so. Council agreed to make a formal request in writing to InterMedia to add the channel before the system is rebuilt later this year. This could mean a channel will be dropped.

Mr. Davis Harris stated that this had been one of the best Public Hearings he had ever attended with good input and suggestions from the public. He advised that he would have a franchise agreement to present to the Marion City Council in the next sixty (60) days.

#### **CONSENT AGENDA**

**VEHICLE TAX REFUND:** The City Manager presented a memo from Ms. Claudia Hill, Tax Collector; requesting a refund for Bud's Garage Inc. The vehicle billed to this business stays and is maintained outside the City Limits of Marion.

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

Bud's Garage Inc.	109 Sunset Drive	\$27.32
1989 Pontiac Sunbird	Marion, NC	
Tax Value \$4,630.00		

**TREE BOARD - LETTER OF RESIGNATION - KENNY STREET:** The City Manager presented a letter of resignation from the City of Marion Tree Board from Mr. Kenny Street. In the letter Mr. Street stated that his position on the Tree Board had proven beneficial to both the City of Marion and Duke Power Company, and that he would like to ask the City Council's consideration in continuing this effort by replacing him with Mr. Phil Ray, another Duke Power employee. Mr. Ray is a Right-of-Way Communications Specialist for Duke Power. He has dealt with tree maintenance across the Duke Power System and presently serves as Chairman of a City Tree Board in his hometown of Hillsboro, N.C.

A discussion followed.

Council agreed that Mr. Ray sounded like a good replacement if he resides in the Marion area. The City Manager will investigate this matter.

The Nominating Committee for the City of Marion will make a recommendation at the next regular scheduled City Council Meeting.

**BICYCLE RACK - RECOMMENDATION FROM STREET COMMITTEE:** The City Manager advised that at the last Regular Scheduled Meeting, a request to place a bicycle rack in front of Leisure Play Palace on Main Street was presented to Council and referred to the Street Committee.

The Street Committee met on January 8, 1996 in the Conference Room at City Hall.

It was determined at that meeting that the City of Marion owned two (2) bicycle racks that were not in use.

It is the recommendation of the Street Committee that one bicycle rack be located in the mini park located on North Main Street in an existing parking space. The rack to be bolted to the pavement so it can not be moved. The rack would be located in the center of one parking space so bicycles can be parked in the rack

from two different directions. It is also recommended that the other rack be located in the City owned parking lot south of the Duke Power Company Office. That rack would also be placed in the center of an existing parking space and bolted to the pavement.

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

**POLICE OFFICERS REQUEST FOR FIREARM - RECOMMENDATION ON POLICY FROM POLICE COMMITTEE:** The City Manager advised that at the last Regular Scheduled Meeting, a request was presented to Council from Ms. Nora Arrowood requesting her service firearm. This request was referred to the Police Committee.

The Police Committee met on January 8, 1996 in the Conference Room at City Hall.

It is the recommendation of the Police Committee that Ms. Nora Arrowood be allowed to purchase the hand gun that she used as a Police Officer for the City, prior to her retirement, at a purchase price of \$1.00.

Tom Pruett, Chief of Police, requested that if Council approves this recommendation that he be allowed to keep the weapon until March 1, 1996.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to accept the recommendation of the Police Committee to allow the Ms. Arrowood to purchase the handgun she carried as a Marion Police Officer for one (\$1.00) after March 1, 1996.

It was also discussed at the Police Committee Meeting, the need for a Policy addressing this issue.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following policy recommended by the Police Committee:

It shall be the policy of the City of Marion to permit any Police Officer, disabled in the line of duty or retiring after serving the Marion Police Department as an full-time Police Officer for a minimum of twenty (20) years, to purchase the hand gun said officer was issued by the City of Marion, upon the Officer paying the City one-half (1/2) the cost of replacement of the hand gun.

In addition, any full-time Police Officer leaving City employment, while meeting all statutory requirements for purchase his/her hand gun by paying the City the total cost for replacement of the hand gun. Any Police Officer having a Court Case pending, which may render his certification void, may not purchase the hand gun until such case is cleared.

In all cases, an application requesting a hand gun must be completed by the Officer at the same time application is made for retirement or a letter of resignation is given.

**UTILITY DEPARTMENT - REQUEST TO WAIVE LATE FEE PENALTY:** The City Manager advised that due to bad weather (snow and ice) the staff in the Utility Department is requesting that the five dollar late fee penalty for payments due before the 15th day of January 1996 be waived.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to waive the five dollar late penalty for payments due on or before the 15th day of January 1996. Persons not paying their bills on or before the 25th day of January will be required to pay the penalty charged for service being reinstated.

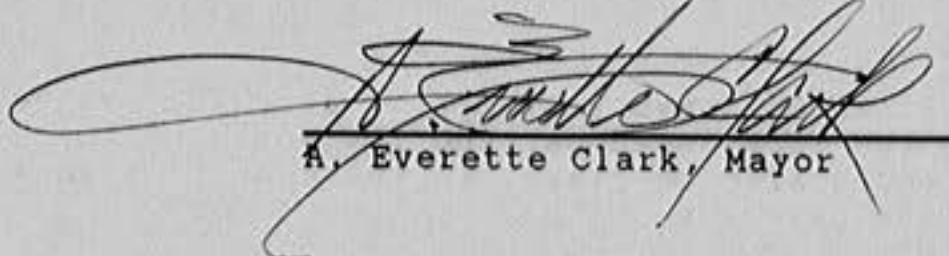
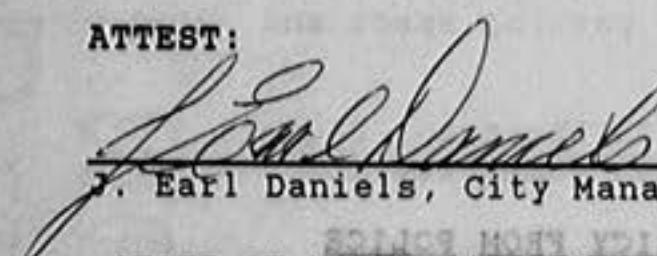
**GEORGIA AVENUE - TULTEX BRIDGE:** The City Manager informed Council that city forces, while repairing a water main serving Tultex Industry, discovered a problem with the bridge-culvert serving Tultex. The bottom of the metal pipe, which is approximately 9 feet tall and 15 feet wide, is rusting causing the pipe to settle as well as the earth on top of the pipe. He advised that if the area beneath the pavement is hollow, the weight of cars and/or trucks may cause it to cave-in. He informed Council that he and others had always assumed that the road and bridge-culvert belonged to the industry since it serves no one else. He stated that after investigating the matter he found minutes of the City Council for February 1960 that stated the City Council agreed to install the road and bridge-culvert to serve an industry. (Washington Mills). The agreement was between the Town and McDowell Development Corporation.

Following a discussion the City Manager was directed by Council to have the necessary repairs made to make the bridge-culvert safe.

Councilman Cuthbertson suggested that a determination be made regarding the need to increase the size of the bridge-culvert before plans are made for final repairs or replacement.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to adjourn on January 16, 1996 a 10:05 P.M.

ATTEST:

  
A. Everette Clark, Mayor  
J. Earl Daniels, City Manager/ClerkSTATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, February 6, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Bill Shaw, News Reporter, WDLF Radio; Lanie Gross, News Reporter, The News Bulletin.

**GUESTS PRESENT:** Nick Hayes, Marion, North Carolina 28752.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted unanimously to approve the Minutes of the January 16, 1996 meeting.

Councilman Edwards arrived for this meeting at 7:07 P.M. after the Approval of Minutes.

**PUBLIC ADDRESS TO THE BOARD:**

**GENE JOHNSON, P.E. ENVIRONMENTAL ENGINEER, DIVISION OF ENVIRONMENTAL MANAGEMENT - REPORT ON MUNICIPAL COMPLIANCE INITIATIVES PROGRAM:** The City Manager advised Council that Mr. Gene Johnson could not be present for this meeting due to weather.

A brief discussion followed.

Mr. Johnson is tentatively scheduled to be present for the February 20th Meeting of the Marion City Council.

**MR. & MRS. MYRON NELSON - CLAIMED DAMAGE TO RESIDENCE AS A RESULT OF SEWER BACKUP:** The City Manager advised that Mr. & Mrs. Myron Nelson could not be present for this meeting due to weather.

**TREE BOARD MEMBERS - REFERENCE APPOINTMENT OF FIFTH MEMBER TO TREE BOARD:** Members of the Tree Board could not be present to meet with Council due to weather.

The City Manager advised that the tree board had not been meeting on a regular schedule and that recommendations from the Board for appointments and/or re-appointments had not been forth coming. The Tree Board now appears to be meeting more often and have taken a great interest in planning for landscaping the Cemetery and working with DOT on the intersections at the By-Pass.

The Tree Board was established with five members appointed by Council.

It is the recommendation of the Tree Board to appoint Mr. Joe Tyler to fill an unexpired term ending 12-31-98.

Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to accept the recommendation of the Tree Board to appoint Mr. Joe Tyler as the fifth member of the Tree Board, term to expire 12-31-98, and to reaffirm the Names and terms of active members of office as follows:

**TREE BOARD MEMBERS AND TERMS**

MEMBERS:	TERM EXPIRES:
Warren Hobbs	12-31-96
Wynn Jackson	12-31-96
Pat Brown	12-31-97
Faye Rowe	12-31-97
Joe Tyler	12-31-98
Lawrence Moore (City Landscaping)	Ex-Officio
LuAnn Ellis (Secretary)	Ex-Officio
Cecil Owenby (Councilman)	Ex-Officio
Kenny Street ( Duke Power Rep.)	Ex-Officio
John Reese (N.C. Forest Service)	Ex-Officio

**AGREEMENT CROM CORPORATION - RESERVOIR:** The City Manager presented Council with the following letter of Agreement addressed to City Engineers for Councils approval:

In order to satisfy the City's concerns about Tnemec's Elastoshield coating becoming a future maintenance burden the Crom Corporation will provide a 20-year warranty. After the twenty-year period for five additional years any cost to repair the coating will be shared equally with the Crom Corporation and the City of Marion. Joint inspections will be made every five years. In addition within the first year an additional inspection will be conducted.

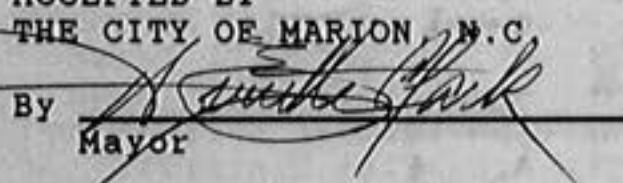
When the tank passes the leakage test the tank will be landscaped and the remainder of the asphalt will be placed.

If the City is agreeable, please sign below and return to us.

Very truly yours,  
The Crom Corporation

Lars Balck, Jr. P.E.  
Vice President

ACCEPTED BY  
THE CITY OF MARION, N.C.

By   
Mayor

Date \_\_\_\_\_

**AGREEMENT - CITY/COUNTY - REFERENCE M.A. FIRE DISTRICT:** The City Manager advised that he contacted Charles Abernathy, County Manager to inquire the amount being considered by the County Commissioners in the lease agreement referred to in section 5. of the Agreement.

The County Manager faxed a Memorandum to the City Manager reading as follows:

Per our discussion, it is our understanding and intent to utilize a standard lease agreement in the amount of one dollar (\$1.00) regarding the MA fire equipment.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to approve the following Agreement, contingent upon the amount intended to utilize the standard lease agreement to be one dollar (\$1.00):

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL

#### **AGREEMENT**

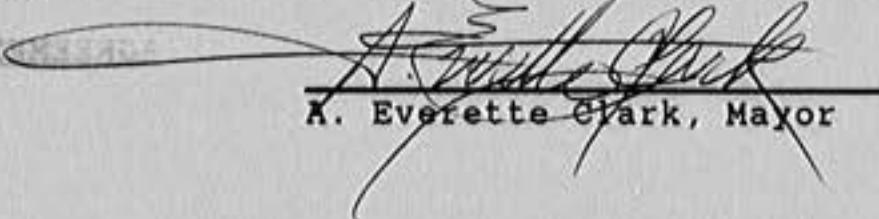
This is an agreement made and entered into by the City of Marion (referred to below as the City) and the County of McDowell (referred to below as the County), for the purpose of dealing with the issue of fire protection services for the Marion Area Fire District.

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

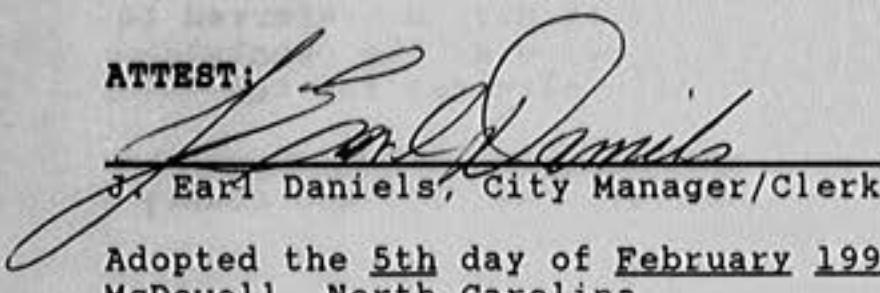
1. The terms of this agreement shall apply to the 1995-1996 fiscal year, which begins July 1, 1995 for both County and City and continue each year thereafter until rescinded by either party by written notice to the other party at least six months prior to the date of termination. The date of termination shall be at the end of fiscal year. This agreement will renew automatically if said written notice is not received.
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 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, each fiscal year, an amount equal to two (2) times the amount appropriated by the County for each rural fire department, 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. A Special Tax District has been created for the purpose of funding operational expenses as well as the replacement of capital items for the Marion Area Fire Department. The Special Tax District will generate a minimum of \$40,000 annually for this purpose. It is estimated that approximately 50% of this annual revenue will be applied to operational expenses and 50% toward capital equipment replacement in the Marion Area Fire District. McDowell County will utilize this Special Tax District Funding for equipment, capital purchases and lease purchases directly and pay to the City the full remaining proceeds of the Special Fire District Tax for the Marion Area Fire District. This allocation to the City will be paid on a quarterly basis.
5. The County shall, during the 1995-1996 fiscal year, purchase one new pumper fire truck, on a lease-purchase plan, 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 words "Marion Area Fire Department" shall be painted on the new truck. The McDowell County Commissioners shall approve plans and specifications for the new truck and equipment to be purchase to equip the truck at the time of purchase. In addition, the County Commissioners shall approve the lease-purchase plan. Should this agreement be terminated by either party, any and all fire trucks and equipment, purchased from funds provided by McDowell County specifically for the Marion Area Fire Department, after July 1, 1995 and labeled Marion Area Fire Department, shall be transferred, to McDowell County upon such termination. It is agreed and understood, that McDowell County will own the equipment purchased by the Special Fire District Tax and will lease this equipment to the City. It is also agreed and understood, that upon termination of this agreement, the City shall have no further obligation to provide fire protection services to the Marion Area Fire District.
6. The City will continue to evaluate the operational expense and capital cost needs of the Marion Area Fire District. When it is determined by the City that the Special District Tax is not sufficient, the City Council shall submit, in writing, a request to the County Commissioners to increase the Special District Tax. McDowell County will require any volunteer fire department to hold a public hearing regarding requests for increases prior to approval.
7. The City Council and County Commissioners will work with members of the Marion and Marion Area Fire Departments and residents of the Marion Area District to try and reduce the Fire Insurance Rating for the Marion Area Fire District.
8. 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.

Adopted the 6th day of February 1996, by the City Council for the City of Marion, North Carolina.

  
A. Everette Clark, Mayor

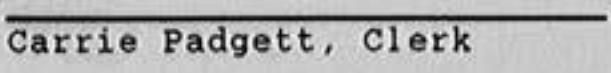
ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Adopted the 5th day of February 1996 by the County Commissioners of the County of McDowell, North Carolina.

  
Terry Smith, Chairman

ATTEST:

  
Carrie Padgett, Clerk

The City Manager advised that he contacted Charles Abernathy, County Manager to inquire the amount being considered by the County Commissioners in the lease agreement referred to in section 5.

The County Manager faxed a Memorandum to the City Manager reading as follows:

Per our discussion, it is our understanding and intent to utilize a standard lease agreement in the amount of one dollar (\$1.00) regarding the MA fire equipment.

**INTERMEDIA CABLE TV FRANCHISE:** Councilman Martin had several questions and concerns related to the Cable TV Franchise.

A discussion followed.

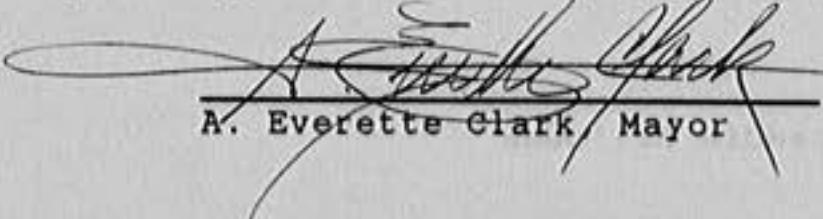
Councilman Martin's main concern is that the City of Marion will end up bowing

down to Intermedia.

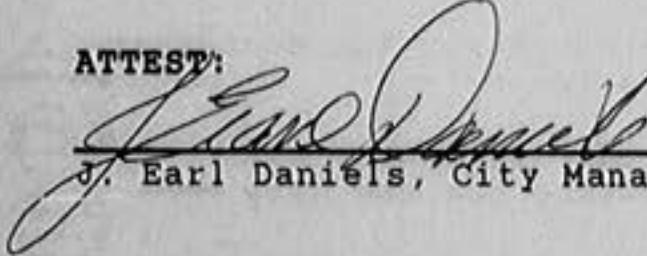
**REQUEST - BY COUNCILMAN MIKE EDWARDS FOR WARREN HOBBS:** Councilman Mike Edwards stated Mr. Warren Hobbs will be moving out of town soon, and that he felt it would be appropriate to honor Mr. Hobbs by way of Proclamation or Resolution for all the dedication and concern he had shown to the City of Marion while be a resident.

Mayor Clark and the City Council agreed, asking the City Manager to prepare something appropriate.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adjourn on February 6, 1996 at 8:20 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, February 20, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin, and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruett, Chief of Police; Steve Basney, Water Superintendent; Freddie Killough, DBA Director; C. D. Malone and Gary Steinbeck, Hydro Management; Dennis Smith, Manager, Waste Water Treatment Plant; Paul Rhodes, Waste Water Treatment Plant; Danny Bridges, City Engineer, McGill Associates; Roger Watson, News Reporter, The McDowell News; Bill Shaw, News Reporter, WDLF Radio

**GUESTS PRESENT:** Cayle Bradley, Logan Bradley, Travis Andrews, Brandon Boyd, Ray Andrews, Josh Renfro, Edward Andrews, Jona Bradley, Gene Andrews, Rachel McPeters, Rita, Parker, Woodie Killough, Christine Mustin, Garland Franklin, Ann Fortenbury Johnson, Mike Parker, DEM, Asheville, Adam Bishop, Andrew Durham, Mitchell Silvers, Edna Gourley, Robert Gourley, Jack Walker, Bill Smith, Ken Spencer, Danny Bridges, Filton Johnson, J. Matt Smith, Denna Smith, Dave Beyer, Fred Moody, Rachel Dowdle, David Wooten, Rod Birdsong, June Burnette, Ronnie Burgin, Hy Cauthen, Bobbie Young, Robert Dunn, John Fender, Rick Moore, Bill Griffith, Melanie Durhum.

**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 the February 6, 1996 Meeting.

**RECOGNITION - BOY SCOUT TROOPS:** Mayor Clark made mention that Scout Master Gene Andrews and Troop # 802 and Scout Master Mike Parker and Troop # 807 were in attendance for tonights meeting. Mayor Clark stated that it is always a pleasure to have the Scouts visit, and thanked them for coming.

**ANNOUNCEMENT - FUNERAL ARRANGEMENTS FOR MR. ROBERT JAMES:** Mayor Clark advised that former Council Member Robert James had passed away.

The Family will receive friends at Westmoreland Funeral Home on Wednesday, February 21, 1996 from 6:00 P.M. - 7:30 P.M.

The Funeral will be held at the First Baptist Church in Marion, on Thursday, February 22, 1996 at 2:00 P.M.

**PUBLIC HEARING - DOWNTOWN MUNICIPAL TAX DISTRICT:** Mayor Clark opened the Public Hearing and requested that Council listen to the requests and comments of Citizens, and make their decisions concerning the Municipal Tax District at a later meeting. Those members of Council present agreed.

Councilman Edwards arrived for the meeting at 7:08 P.M., as Mayor Clark was

opening the Public Hearing.

The City Manager read the Notice of Public Hearing as it appeared in the McDowell News Paper on February 7, 1996 and again on February 14, 1996.

The City Manager announced that the purpose for the Public Hearing will be to receive input from the downtown merchants and property owners in reference to the Downtown Municipal Tax District. He advised that the City Council will receive recommendations to enlarge, reduce or discontinue the Downtown Municipal Service District.

Mayor Clark requested that the City Manager give some background information on the Municipal Service District.

A discussion followed.

**Mrs. Freddie Killough** stated that it was the desire of the Board for the Municipal Service District to remain as it is with the present boundaries.

**Councilman Owenby** stated that Mrs. Killough was not clear what Board she was referring to, and did not want anyone to think she was speaking for the City Council.

**Mr. Rick Moore** made several comments and expressed his desire for the District to remain as is.

**Mr. Jack Walker** advised that he was opposed to the tax being charged to such a small number of property owners.

**Mr. Bob Gourley** made several comments and informed the Council that he is not opposed to the tax, but does not want his property to be included in the District. He advised that everyone in the City gains by the activities of the DBA and everyone should pay for the service.

**Mr. Matt Smith** informed the Council that he thought the DBA would be providing or helping businesses and property owners get low interest loans for improvements and expressed his desire to see the tax be City wide.

**Mr. Hy Cauthren** made several comments and expressed his desire to leave the tax district, and improve it, one way being to change two hour parking on Main Street to one hour, and enforce it.

**Mr. Rod Birdsong** reviewed some of the benefits to the community provided by the DBA and expressed his desire for the tax district to remain as it is.

**Mr. Bill Griffith** made several comments and recommended the tax district remain as it is.

**Mr. Woody Killough** spoke in favor of the tax district.

**Mr. Ronnie Burgin** asked that Council not enlarge the tax district to include the area where his business is located on North Main Street.

**Councilman Edwards** suggested that Council just do away with the Tax District and the City increase its contribution to cover the estimated \$12,000 loss.

The City Manager suggested that businesses not located in the Downtown Area and residential taxpayers may object to the City providing additional funds to be used only in the Downtown Area in addition to extra services already provided by the City such as snow removal, street cleaning, street lighting and landscaping.

**Ms. Priscilla Owenby** of Mountain Valley Insurance Agency sent a letter of support for the Downtown Business Association.

**Ms. Sandra Epperson** of the McDowell Arts & Crafts Association also sent a letter of support for the Downtown Business Association.

**GENE JOHNSON, P.E. ENVIRONMENTAL ENGINEER, DIVISION OF ENVIRONMENTAL MANAGEMENT - REPORT ON MUNICIPAL COMPLIANCE INITIATIVES PROGRAM - WASTE WATER SYSTEMS:** The City Manager introduced Mr. Gene Johnson, P.E. Environmental Engineer, with the Division of Environmental Management. Also present for this meeting was Mr. Mike Parker with DEM.

Mr. C.D. Malone and Mr. Gary Steinbeck of Hydro Management were present for this meeting, along with Dennis Smith and Paul Rhodes, operators of the City of Marion Waste Treatment Plant.

Mr. Gene Johnson stated that the Region IV EPA recommended that the Construction Grants and Loans Section of the Division of Environmental Management establish a Municipal Compliance Initiatives Program for Fiscal Year 1990. The Primary purpose of the program is to review wastewater treatment facilities that are currently in compliance with the NPDES Permit Requirements but appear to have the potential for a violation. The intent of the program is to advise the local units of government

of the Division's findings and make recommendations of corrective measures which would maximize the design life at the wastewater treatment system.

The City of Marion requested the Division to do an evaluation of their wastewater treatment system. The report includes design summaries of the existing wastewater treatment plant, an evaluation of each unit process including flow characteristics, assessment, recommendations and conclusions.

The intent and purpose of the evaluations is to offer recommendations and/or suggestions that will help the City remain in compliance with the NPDES permit limitations. It is not intended to be used for purposes or in any way obviate previous or future engineering evaluations of the City's wastewater treatment system.

Mr. Johnson reported that the City's Wastewater Plants are presently in compliance with NPDES Permits.

He reviewed with Council potential future problems to be considered and gave advice on needed equipment repairs and replacements.

**CATAWBA RIVER WASTE WATER PLANT EXPANSION:** Mr. Danny Bridges of McGill Associates was present for this meeting and advised Council that the existing Catawba River WWTP has an NPDES permit to discharge up to 0.250 mgd to the Catawba River, but the plant was constructed based on a design flow of only 0.150 mgd. The current average flow treated by the plant is approximately 0.080 mgd.

Mr. Bridges informed Council that based on Mr. Johnsons report that the Catawba River Plant can be expanded to 250,000 gallons per day without having to install additional basins. He informed Council that the new estimated costs to enlarge the facility is \$228,800, which will save the City over \$300,000 based on an earlier estimate.

He informed Council that the Catawba River Plant does not currently have a nitrogen effluent limit and it is not necessary to achieve nitrogen removal at this time. The DEM regional office has indicated that a nitrogen effluent limit is not currently planned, and the earliest they could add a nitrogen limit is when the permit is renewed in the year 2000. Should a nitrogen limit be imposed at that time and additional nitrogen removal is required, it appears feasible that the flow equalization basins could be modified to be used as aeration volume, the blowers could be upgraded, and a new flow equalization basin could be constructed if needed.

There should be significant cost savings to the City if the existing aeration basins can be utilized for the plant expansion to 0.250 mgd.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously for McGill Associates to proceed with the revised plans to expand the Catawba River Waste Water Plant.

**HICKORY CONSTRUCTION COMPANY - UPDATE:** Mayor Clark requested that Mr. Danny Bridges give Council an update on the Clearwell.

Mr. Bridges advised that work on the clearwell had been completed except for some landscaping which must be completed in the spring.

Councilman Owenby advised that he was not on the City Council when they agreed to accept the clearwell, but that he would not have accepted the clearwell as it is now. He stated that the top of the clearwell looks like a road map or a quilt, with lines showing where cracks have been filled. He said, in his opinion, someone should be made to cover the top with some type material so it looks like a new clearwell.

**REQUEST - OLD CONCRETE - WILLIS TRUESDALE - 112 GLENVIEW STREET:** The City Manager advised Council that Mr. Willis Truesdale is requesting old concrete to be delivered to his property on Glenview Street when removed by City forces for curb replacement.

City Policy allows City Crews to give old concrete to residents rather than having to haul it greater distances to dispose of it. This saves time and money.

It is the understanding of the City Manager that Mr. Truesdale would like this material dumped off a bank behind his residence to fill an area being eroded by the creek.

The City Manager stated that he saw no problem with dumping the material where directed by Mr. Truesdale, provided we have an agreement that Mr. Truesdale will be responsible for any environmental problems which may occur, and for removal of any of the material from the creek. He suggested that City employees only dump the material where directed and leave.

Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, Council voted unanimously to approve this request as outlined by the City Manager.

**EMPLOYEE ASSISTANCE PROGRAM - JOHN WANNER:** The City Manager advised that Mr. John

Wanner would like to come before Council again with a proposal for an Employee Assistance Program.

Council agreed there was no need for Mr. Wanner to come this year.

**TREE BOARD - REQUEST FOR FUNDS:** The City Manager presented a memo from Ms. LuAnn Ellis, Personnel Director/Secretary to Tree Board requesting approximately \$1,200.00 to replace trees and shrubs at Oak Grove Cemetery along Sycamore Drive.

The cost would allow the purchase and installation of six Dwarf Little Gem Magnolia trees, two Japanese Clerevia (a type of red color shrub similar, but more hearty than Red Tips), three Armstrong Maple trees that produce a brilliant red foliage and additional filler shrubs. The trees chosen have a root system that would not damage the streets inside the Cemetery. The work would be done by Lawrence Moore.

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

**TREE BOARD - APPOINT ONE MEMBER:** Upon a motion by Councilman Owenby, seconded by Councilman Edwards, Council voted unanimously to appoint Mrs. Loretta Smith to the Tree Board to fill the unexpired term of Warren Hobbs.

The names and terms of the Tree Board are as follows:

Loretta Smith	12-31-96
Wynn Jackson	12-31-96
Pat Brown	12-31-97
Faye Rowe	12-31-97
Joe Tyler	12-31-98

Ex-Officio's

Lawrence Moore
LuAnn Ellis
Cecil Owenby
Kenny Street
John Reese

**ABC BOARD - APPOINT ONE COUNCILMAN:** Upon a motion by Council Cuthbertson, seconded by Councilman Edwards, Council voted unanimously to appoint Councilman Billy Martin to serve on the ABC Committee. Councilman Martin will work closely with the ABC Board and serve as liaison between that Board and the City Council.

**TAX REFUND - RONNIE & PATTI HOLLIFIELD:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector; requesting a refund for Ronnie & Hattie Hollifield in the amount of \$32.28.

Their property located at 75 School Street was annexed into the City Limits in 1989. At that time, they purchased a vacant lot of 0.32 acres which adjoined their land behind their house.

When the McDowell County Tax Department transferred the property, they added the 0.32 acres to 75 School Street.

As stated in General Statute 105-381 they can request a release if the tax is unpaid or a refund if the tax has been paid at any time within five years after said tax first became due.

A release was done on the 1995 tax. They are requesting a refund on the 1991, 1992, 1993 and 1994 taxes.

A breakdown for the years they are requesting is as follows:

YEAR	VALUE	TAX RATE	AMOUNT
====	=====	=====	=====
1991	1,367.00	0.59	8.07
1992	1,367.00	0.59	8.07
1993	1,367.00	0.59	8.07
1994	1,367.00	0.59	8.07
			=====
TOTAL			\$32.28

Ms. Hill therefore requests that Ronnie & Hattie Hollifield receive a refund in the amount of \$32.28.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the refund as requested.

**BASKETBALL COURT - COMMUNITY BUILDING:** The City Manager presented Council with a memo from Mr. Glen Sherlin, PWD requesting permission to make improvements to the existing larger basketball court at the Marion Community Building playground area.

The basketball Court is described as follows:

Dimension - 75' x 58'  
 Present surface - Asphalt  
 Surface condition - Fair (Deteriorating)  
 Surface drainage - Poor

Options for improvements are listed as follows:

Option 1  
 Estimated cost - \$4,000 (contract)  
 To wedge and resurface over existing asphalt surface with sand mix type asphalt.  
 It is questioned if this will eliminate low points and provide proper drainage.  
 Approximate time to complete job - 2-3 work days.

Option 2  
 Estimated cost \$4,600 material only (City Labor)  
 To remove existing asphalt, establish proper grade with an additional 75 ton of  
 base stone. Form and pour in 4 sections with 67 yds. of 4,000 P.S.I. concrete 5"  
 in depth.  
 Approximate time to complete job - 8-10 work days.

Option 3  
 Estimated cost - \$3,000.00 (contract) plus \$375 (City)  
 To remove existing asphalt, establish proper grade with an additional 75 ton of  
 base stone using City Labor.  
 To have contractor pave new asphalt surface with 2" sand mis. This particular  
 installation should carry a full warranty of satisfaction to City. Approximate  
 time to complete job - 2-3 workdays.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council  
 voted unanimously to accept Option 3 as provided by the Public Works Director to  
 resurface the basketball court.

**STREET IMPROVEMENTS - WORK SCHEDULE:** Upon a motion by Councilman Edwards, seconded  
 by Councilman Owenby, Council voted unanimously to approve the following street  
 improvements within Budget limitations:

(ASPHALT CURB)

(Estimated costs shown reflects resurfacing only)

(1) Holly Hill Drive from West Henderson Street to end of the Street (Curb as needed)	11,000.00
(2) Pinnacle Street - (No curb needed)	1,200.00
(3) Montevista Street (Portion)-(Curb OK)	4,000.00
(4) New Street from North Garden to end-(Curb OK)	3,000.00
(5) Granby Street (Portion)-(No curb on Street)	2,400.00
(6) California Avenue - entire length (No curb on Street)	7,500.00
(7) Oakwood Drive - entire length (Curb OK)	5,500.00

The following streets need resurfacing but only after new curbs are installed  
 where necessary.

(CONCRETE CURB)

(Estimated costs shown reflects resurfacing only)

(1) Blue Ridge Street - Entire length	8,260.00
(2) State Street from Main Street to the railroad crossing	8,124.00
(3) James Drive from North Garden Street to Viewpoint Drive	2,155.00
(4) Gilkey Street from Oak Street to East Court Street	2,700.00
(5) Ellis Street - Entire length	3,800.00
(6) Dogwood Lane from Fleming Ave. to Lonon Ave.	4,300.00
(7) Cresent Avenue from Fleming Avenue to North Garden Street	4,370.00

**PLAQUE - WARREN HOBBS:** Council agreed to present Mr. Warren Hobbs with a Plaque,  
 recognizing him for service to the citizens of City of Marion.

The City Manager was instructed to invite Mr. Hobbs to the March 19, 1996 City  
 Council Meeting for presentation.

**TOWN MEETING:** Council agreed to hold a Town Meeting at the Marion Community  
 Building on Monday, March 4, 1996 at 7:00 P.M.

**COUNCILMAN OWENBY:** Councilman Owenby advised that he had received several  
 complaints regarding the traffic signal at the intersection of West Court and  
 Carson Street which continually stays green for traffic from West Court to Tate  
 Street creating a problem for residents trying to get in and out of their drives.

Councilman Owenby also asked that the curb directly across from West Court Food Center be checked. A number of persons have complained about the curb projecting out into the street.

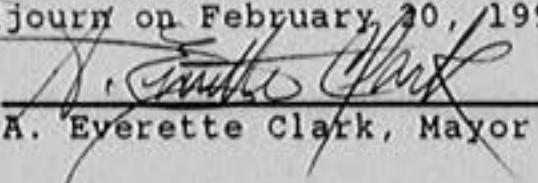
Councilman Owenby advised that Mr. Guy Jackson had asked that the City consider paving a street in West Marion where he is developing one or more lots for mobile homes.

**COUNCILMAN MARTIN:** Councilman Martin advised that the letter written to Mayor Clark, dated February 10, 1996 from Dennis L. Marmon, Regional Manager for Intermedia is not acceptable.

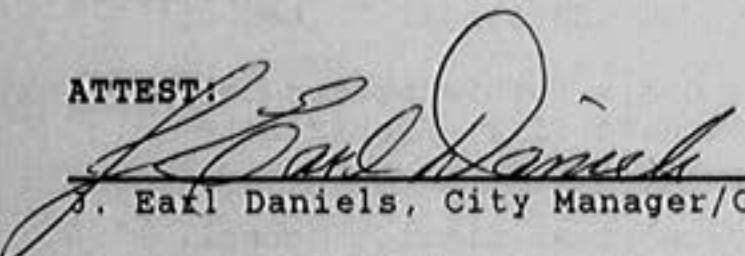
**COUNCILMAN EDWARDS:** Councilman Edwards advised that he has another pay plan he wishes to share with Council and that he would send out copies next week.

**COUNCILMAN CUTHBERTSON:** Councilman Cuthbertson advised that when going West on Rutherfordton Road toward Main Street in the evenings, the sun blinds motorists so the traffic light colors are not visible. He suggested that DOT be contacted and asked to place a backing on the lights to assist in blocking out the sun light.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adjourn on February 20, 1996 at 11:20 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 for a Town Meeting on Monday evening, March 4, 1996 at 7:00 P.M. at the Marion Community Building.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Lovina Smith, Zoning Administrator; Sharon Hogan, Purchasing Agent; Ron Evans, Building Inspector; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Steve Basney, Water Superintendent; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Paul Rhodes, Waste Water Treatment Plant Manager; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM.

**GUESTS PRESENT:** Tammie Smith, 909 Wayne Street Marion, N.C. 28752; Timothy Hendley 229 Tyler Hgts. Marion, N.C. 28752; Clyde & Dorothy Clontz 122 Martin Street, Marion, N.C. 28752; Willard Toney 510 5th Street Marion, N.C. 28752; Wayne Sprouse 313 3rd Street, Marion, N.C. 28752; Carl Helms 1st Street, Marion, N.C. 28752; Lloyd Burleson 100 School Street, Marion, N.C. 28752; James Biggerstaff 97 School Street Marion, N.C. 28752; Johnny Patton, Marion Police Department; Jerry Arnold, State Street, Marion, N.C. 28752; Arthur O'Dear Glenview Street, Marion, N.C. 28752; Ronnie Burgin P.O. Box 1507 Marion, N.C. 28752; Eddie Smith Marion, N.C. 28752; John Stevens, P.O. Box 1377 Marion, N.C. 28752; Idana Sluder Glenwood Avenue Marion, N.C. 28752; Charles Hall 603 6th Street Marion, N.C. 28752; Barbara Conley 106 Woodlawn Street Marion, N.C. 28752; David & Bonnie Setzer 20 New Street Marion, N.C. 28752; Charles & Hilda Oglesby 100 Richard Drive Marion, N.C. 28752; Brett Moore 607 Ridgecrest Avenue Marion, N.C. 28752; Bill Greenlee South Garden Street Marion, N.C. 28752.

**TOWN MEETING:** Mayor Clark opened the Town Meeting and thanked the Citizens for coming.

The City Manager introduced all City Department Heads and Personnel in attendance.

Mayor Clark introduced each Councilman and gave them the opportunity to address the group.

Ms. Tammy Smith of 909 Wayne Street, stated that her back yard was caving in due to old sewer lines or some type of a drainage system. She did not know exactly what the problem was but wants it corrected.

The City Manager advised that he was not aware of the problem and ask Public Works Director Glen Sherlin if he would investigate the matter the following day.

Mr. Clyde Bobo of 822 Fleming Avenue advised that he had not had any water pressure in twenty years. He stated that his surrounding neighbors had plenty of pressure.

The Public Works Director advised that it sounds like an isolated problem since his neighbors had adequate water pressure. He informed Mr. Bobo that city

employees would look into the problem on Tuesday.

Mr. Bobo also stated that he did not feel the law was being enforced in regards to the no left turn sign on the corner of Monte Vista Avenue and North Main Street beside of Bilo's.

Ms. Barbara Conley of 106 Woodlawn Street stated that something needed to be done about the kudzu growing out of control on an alley located near her residence.

Ms. Conley also has a problem with vehicles speeding in the area.

Mr. David Setzer of 20 New Street thanked the Mayor and Council for the good work that had been provided by the City.

Mr. Setzer requested that Citizens be allowed to recycle more items than presently allowed.

The City Manager advised that the City's Contract with GDS will be up this year and that Mr. Setzer's request will be considered.

Mr. Charles Oglesby questioned why the City had stopped supporting Family Services of Marion by way of funding.

Mr. Oglesby was advised that \$2000.00 had been placed in the proposed budget for 1997.

Mr. Wayne Sprouse of 3rd Street in East Marion stated that he was in favor of Street washing and would like to see it done all over the City.

Mr. Sprouse also inquired why the City hired persons to mow the strips of grass in the right-of-ways in front of properties located in the City. He asked if the City could not make property owners mow these areas.

Mr Willard Toney of East Marion advised that he had never seen the Streets washed in East Marion.

The City Manager advised that a new Street Flusher Truck was in the proposed budget for 1996 and that one salary would be in next years budget to hire one person to man this truck full time.

Mr. Toney and Mr. Clyde Bobo also thanked the Mayor and City Council for their efforts in beautifying the Downtown Area.

Mr. Paul Beechboard of 404 Miller Avenue advised that there was poor street lighting on Miller Avenue between Zeb Vance and Ridgecrest Street.

The City Manager advised that he would have the lighting checked and compared to City Policy on Street Lights the next day.

Mr. Dean Walker stated that he would like to see a town meeting called every six months.

Mr. Walker also stated that he has a Street Light in front of his residence that has been burned out for three weeks.

The City Manager advised that the Police Department is supposed to notify Duke Power each morning of all street light not operating within the city the night before.

Ms. Brett Moore of 607 Ridgecrest Street advised that the stop sign at the corner of Ridgecrest and Miller Avenue is totally ignored by some motorists.

Ms. Moore would also like fire hydrants near her residence flushed on a regular schedule since the water line serving her residence is not looped for water circulation.

Mr. Clyde Clontz of 122 Martin Street asked when Martin Street would be paved.

The City Manager advised that Martin Street is still on the State System.

Mr. Howard Biggerstaff of 97 School Street asked why the Clinchfield area did not have an adequate number of fire hydrants. Mr. Biggerstaff advised that they seemingly had plenty of water pressure.

Mayor Clark advised that the water lines serving that section of Clinchfield are to small to serve fire hydrants. The City has plans to install a number of larger water lines in the near future.

Ms. Hilda Oglesby advised that she did mow the strip of grass in front of her property and did not have to be asked to do so.

Ms. Oglesby also inquired what involvement the City of Marion has in connection with the proposed new Airport.

Mayor Clark stated, absolutely none.

Mr. Carl Helms of 2nd Street in East Marion asked if the City of Marion could do anything about the leaking Reservoir above his house.

The City Manager advised that the Reservoir above Mr. Helms house was not in the City Limits, but that he would contact Decotech and request that something be done.

Mr. Dean Walker feels that persons owning and/or renting property in the Downtown Municipal Service District should be the only persons being taxed specifically for the Downtown Business Association, not all Citizens of the City.

Mayor Clark advised that a closer look at redrawing the district would be appropriate.

A discussion followed.

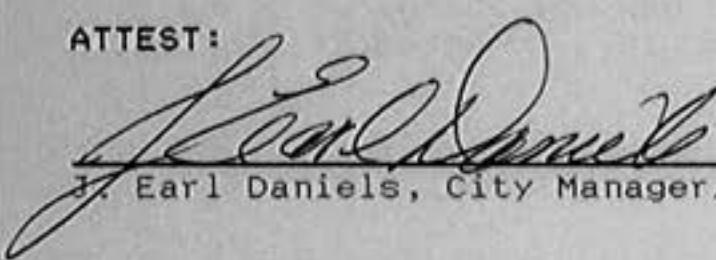
Mr. Ronnie Burgin stated that he was not in favor of his business being a part of the Downtown Municipal Tax District.

Ms. Hilda Oglesby thanked the DBA and its Committee Members for the hard work they had done over the years.

**ADJOURNMENT TIME AND DATE:** The town meeting was adjourned at 9:25 P.M. on March 4, 1996.

  
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, March 5, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Tom Pruett, Chief of Police, Freddie Killough, Downtown Business Association Director; Roger Watson, News Report, The McDowell News.

**GUESTS PRESENT:** Garland Franklin 234 Spring Street, Marion, N.C. 28752; Mr. & Mrs. Myron Nelson 150 Lincoln Avenue Marion, N.C. 28752; Mr. & Mrs. Chuck Oglesby 100 Richard Drive, Marion, N.C. 28752; Ms. Johnsie Jackson Marion, N.C. 28752; Ms. Tillie Twitty 405 Hudgins Street Marion, N.C. 28752; Mr. Bob Gourley Marion, N.C. 28752; Ms. Kaye Cuthbertson Glenview Street Marion, N.C. 28752; Mr. Joe Hall Post Office 1122 Marion, N.C. 28752; Mr. Van Boyd, Post Office Box 1122 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 the February 20, 1996 Meeting.

Councilman Edwards arrived for the meeting at 7:07.

The City Manager gave the following update with regards to solutions to requests from Citizens who attended the Town Meeting held March 4, 1996 at the Marion Community Building.

1. Ms. Tammy Smith - The area caving in on this property is a City installed storm drain and has been scheduled to be corrected as soon as possible.
2. Mr. Clyde Bobo - The low water pressure has been corrected this date. Mr. Bobo had three gallons of water per minute coming into his residence. He now has twenty gallons coming in per minute.
3. Ms. Barbara Conley - The kudzu problem stems over an unopened alley. It is not City Policy to mow, cut or maintain unopened alleyways.

4. Mr. David Setzer - Additional recycling items for will be the topic of discussion when the next recycling contract is considered this year.
5. Family Services - \$2000.00 is in the proposed budget for next year.
6. Mr. Paul Beechboard - Two more Street Lights will be placed on Miller Avenue.
7. Street Light Complaints - The Marion Police Department is responsible for notifying Duke Power each morning of all street lights not operating the night before.
8. Ms. Brett Moore - Regular flushing of the main water line near her residence will be scheduled. Also the stop signs being run by motorists will be followed up by the Marion Police Department.
9. Martin Street - Martin Street is not on the City Street System but will be considered for transfer to the City System.
10. Mr. Delmer Gray - The Storm drain is closed with concrete. The cost to pipe the storm water down the street would be extremely high compared to the benefits.
11. Mr. Howard Biggerstaff - There are plans to replace the small water lines in the Clinchfield area. This will allow for the installation of more hydrants.
12. Cleaning of Streets - Funds are appropriated to buy a new flusher truck in this years Budget. One person to run the flusher truck full time will be proposed in next years budget.

**DOWNTOWN BUSINESS ASSOCIATION - MUNICIPAL TAX DISTRICT:** The City Manager gave a brief history of the Municipal Service (Tax) District.

He stated that a Downtown Business Association in a nearby Town holds a silent auction to raise money to provide grants and loans for building renovations in their Downtown Area.

Councilman Edwards suggested that consideration be given to eliminating the Municipal Service District Tax and replacing the funds with a contribution from the General Fund. He stated that he would like to know other Council Members views.

Councilman Owenby suggested that the City send out a form surveying the persons who are now in the Tax District to determine who is for and who is against the Tax District and to let the majority rule. If the majority is against the Tax District then do away with it all together.

Councilman Little advised that he did not want to have a short sighted view since the program had worked so well. The empty buildings do not reflect the good or bad job the DBA is doing. There are empty buildings in many Cities, including Raleigh. Councilman Little feels that the concept of the DBA should stay, but that the question is how to fund it.

Councilman Little suggested that the Tax District be redrawn to tighten the boundary some, so that anyone could look at the District and understand why it was drawn that way.

Councilman Edwards agrees with Councilman Little, and with Councilman Owenby.

Councilman Martin stated that the Downtown area is ours and that he feels we should do everything in our power to keep it vibrant. Councilman Martin also commended the people who have worked to make the Downtown area what it is and feels that Freddie Killough is doing what she does as the Downtown Business Association Director because she cares about the City.

Councilman Cuthbertson advised that he thought the survey was a good idea, but that he would be opposed to disbanding the Tax District even if the majority of the votes were against the Tax District.

Mayor Clark stated that he feels the boundary of the Tax District needs to be redrawn.

Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to poll all merchants and/or tenants located inside the tax district.

Council further agreed for Councilmen Owenby and Martin to work with the City Manager and Freddie Killough to design a form to poll the merchants and/or tenants located inside the tax district and to present the form to Council at the next meeting.

**MR. & MRS. MYRON NELSON - PROPERTY DAMAGE SETTLEMENT:** The City Manager advised that Mr. & Mrs. Myron Nelson are requesting the City to pay them \$2,500.00 for damages from sewer water backing up in their basement during rain storms. The residence was constructed directly over a sewer main line and the sewer line from the residence connected directly into the main line. Since the residence has a

basement and the waste lines in the basement are lower than the tops of manholes on the sewer line, any blockage in the line downstream of the residence would result in wastewater backing up in the basement, since it is the lowest level. As soon as possible, after the incident, the City had a contractor construct a new sewer line around the residence, and disconnected the lines under the residence. City forces also cleaned and or replaced several hundred feet of sewer lines and had a contractor clean sewer lines on Rutherfordton Road. The City Manager advised that he believes the problem is solved. The City has an insurance policy to cover this type problem, provided the City has been negligent and is legally at fault. The City Manager stated that he did not believe that legally the City is at fault since action was taken as soon as the problem was reported. That is not to say the Nelsons should have to pay the entire costs for damages. This problem was not a direct result of action taken by Mr. and Mrs. Nelson. The sewer line was not blocked by materials coming from their property nor from roots of trees in their yard.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve this request and to pay Mr. & Mrs. Myron Nelson the sum of \$2,500.00 for damages to their property. A legal document will be prepared for Mr. & Mrs. Nelsons signature releasing the City of Marion from any further damages or liability.

**REQUEST FOR WATER AND/OR SEWER:** Mr. Joe Hall and Mr. Van Boyd was present for this meeting to discuss the possibility of water and/or sewer service being available to property they own in the Pleasant Gardens area. They are planning a development to accommodate approximately 85 mobile home sites.

Mayor Clark stated that the Sewer Line serving the City of Marion only goes to the area serving the Wal-Mart Shopping Center located on Highway 70 West. This would be an extremely expensive project due to crossing several bridges before you get to the property.

A discussion followed.

The matter was referred to the Utility Committee.

**HABITAT - BID TABULATION - WATER/SEWER PROJECT:** The City Manager advised that only two bids were received for this project and that it was decided to rebid this project.

Mayor Clark stated that it was his understanding that the Engineer only gave the Contractors ten days to submit their bid, and that he felt this was not a proper amount of time.

The Mayor stated that he was not happy with the amount of time it has taken to bid the project.

**INSPECTIONS - DOWNTOWN STRUCTURES - FIRE, HEALTH AND SAFETY NEEDS:** The City Manager advised that Building Inspector Ron Evans and Assistant Fire Chief Mack Laughridge have been doing inspections in the downtown area. They have found pigeons roosting in the upstairs sections of some buildings. Their droppings are piling up in some buildings and they have found dead deteriorating pigeons. There is concern that the pigeons could carry a lighted (lit) cigarette into one of these buildings.

The Inspector and Assistant Fire Chief will continue with their inspections and work with the property owners to get these unsanitary areas cleaned up and screened to keep pigeons out.

**MR. GUY JACKSON - REQUEST CITY TO TAKE OVER STREET:** The City Manager advised that Mr. Guy Jackson has requested that the City of Marion take a section of street which has been dedicated to the City on East Grayson Street for maintenance and pave it. Mr. Jackson has filled property and graded the Street within the dedicated right-of-way approximately 18 feet wide and 240 feet to a deep ravine. Mr. Jackson has advised that the street would not be developed any further due to the topography of the area.

A discussion followed.

It was unanimously decided by Council to get an estimate on the cost of a compacting test on this street before any decision is made by City Council.

**SOUTH MADISON - STORM DRAINAGE PROBLEM:** A request was made by Ms. Altha Reel of South Madison Street for the City to repair damage to her property caused from a drainage pipe installed by the City many years ago. The pipe was installed to carry water from South Garden Street and South Madison Street to the branch located behind Ms. Reels residence. A section of the thirty inch diameter pipe may have fallen or been washed away by the branch. A large tree has been undermined by water flowing through the pipe.

It is the recommendation of the Street Committee to correct this problem.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to correct the damage to Ms. Reels property, contingent upon Ms. Reel signing an easement.

**BAKERSVILLE ROAD - REQUEST TO ADD TO RESURFACE LIST:** The City Manager advised that he had received a request to add Bakersville Road to the list for Street paving.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve this request by adding Bakersville Road to the list of Street improvements.

**RECREATION COMMISSION - RECOMMEND ONE APPOINTEE:** The City Manager advised that Council needs to recommend one person for appointment to the Recreation Commission.

Councilman Martin informed the Council that he knows someone who he feels would be willing to serve on the Recreation Committee. Councilman Martin will report the name to Council at the next regular scheduled meeting.

**MEDA - APPOINT ONE COUNCIL MEMBER TO MEDA BOARD:** The City Manager advised that one Councilman, or one Elected Official needs to be appointed to the McDowell Economic Development Association Board to replace former Council Member Robert Ayers.

Mayor Clark advised that if no one was interested in serving on this Board that he would be happy to represent the City of Marion.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to appoint Mayor Clark to serve as representative for the City of Marion on the MEDA Board.

**RESOLUTION - IDENTIFYING AREA BEING CONSIDERED FOR ANNEXATION:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following resolutions.:

**A RESOLUTION IDENTIFYING THE AREA  
DESCRIBED HEREIN AS BEING  
UNDER CONSIDERATION FOR ANNEXATION**

**BE IT RESOLVED** by the City Council of the City of Marion:

That pursuant to G. S. 160A-37 (i), the following described areas are hereby identified as being under consideration for future annexation by the City of Marion, under the provisions of Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina:

The descriptions below are in reference to the map which will be certified as the actual area under consideration. This map will be placed on display in the Office of Community Development and Zoning and the City Clerk.

This RESOLUTION OF CONSIDERATION will include these described areas which are contiguous to the City Limits of the City of Marion on this the 5th day of March, 1996.

Areas under consideration will include all properties which are either contiguous to, have access to, or are in developments which are directly connected to, the streets listed as boundaries. This is to be understood unless otherwise stated. This description will include all properties which lie between these listed boundaries and the current City Limits. SECTION I. is described clockwise and all other sections are described in a counter-clockwise manner.

**SECTION I.**

The eastern boundary will follow Reid Street South to the intersection of Reid Street and Burma Road West to Shady Lane. The boundary (line) will then run South to the end of Shady Lane at the intersection with S.R. 1168. The line will then continue across the back of lots from Shady Lane in a North Northwest direction until it reaches Sugar Hill Road. This will include all lots/properties on Shady Lane, Popular Street and Meadow Lane.

The line will then pass across Sugar Hill Road and then continue North Northwest on Veterans Drive to Sunset Drive. The boundary will follow Sunset Drive South Southwest to the end of the road at which point the line will follow the back of property lines in a Northward manner and meet the property at the end of Veterans Drive Extension to the North. This will include all lots along Veterans Drive to the bridge over the creek, Sunset Drive, McKinney Road, Tanglewood Drive, Veterans Drive Extension and the dirt road which attaches to Veterans Drive Extension.

The boundary will then continue along S.R. 1195 North Northeast until it intersects with Southern Railroad tracks. It will then proceed along the tracks Southeast until it meets the current City Limits.  
(The creek on Veterans Drive will be the most Westerly point in this section.)

**SECTION II.**

The boundary will follow U.S. Hwy. 221 (i.e.: Rutherford

Road) Southeast to the U.S. Hwy. 221/N.C. 226 junction, then follow property lines in a North Northwest manner until the boundary line intersects with Carolina, Clinchfield and Ohio Railroad tracks.

The line will then proceed North on the tracks until it reaches the over-pass on U.S. Hwy 70. The Carolina, Clinchfield, and Ohio tracks will be considered the most eastern boundary. The line will then continue following U.S. Hwy. 70 West until it reaches the current City Limits.

#### SECTION III.

The South boundary will follow the U.S. Hwy. 70 East to the Carolina, Clinchfield, and Ohio Railroad tracks over-pass; it will then continue along the tracks North to a point where Burlington Mills property adjoins the railroad tracks at it's most Northern corner.

At this point, in the North corner of Burlington Mills property which is contiguous to the railroad tracks; the line will follow the Burlington Mills property line Northwestern until it connects with the dead-ended portion of Old Morganton Road (Ridge Road). It will then follow Old Morganton Road West to the intersection with Ridge Road. The boundary will then proceed North on Ridge Road to School Street and then continue West on School Street to Tank Street. All properties along East Side Avenue and S.R. 1582, which is North of School Street will be considered within this description.

The line will continue Northwest on Tank Street/Virginia Road to Forsyth Street and then shall proceed North on Forsyth Street. At a point North on Forsyth Street, where the last lot adjoins, the line will follow lot lines across their North boundaries between Forsyth Street and Hill Street. This line will be in a West direction. This boundary will be in such a manner to include all properties along Forsyth Street, Virginia Road, and Hill Street. The line will then proceed along Hill Street South back to Virginia Road.

The boundary will then follow Virginia Road West to the sharp curve which bends to the South; at this point it will follow property lines to the North to Yancey Road (S.R. 1501). It will then run North with Yancey Road to a point due East of the dead-end of Wall Street. A boundary will follow along the Property lines running West from Yancey Road to the last lot on the North end of Wall Street.

The line will then follow Wall Street to Lonon Avenue where it will run West along Lonon Avenue to the current City Limits. This will include all properties along the described portion of Yancey Road, Dogwood Lane, Lonon Avenue, and Wall Street.

#### SECTION IV.

The border will proceed along the North boundary line of the properties along Dogwood Lane. The line will continue West and run North when it reaches Victory Drive (formerly known as Pea Ridge Road). The line will run along the North border of lots between Victory Drive and Airport Road. It will then proceed North on Airport Road until it reaches Jackson Road. At Jackson Road, the line will follow the road North to the end from which the border will follow property boundary North Northeast to the dead-end portion of Grandview Street.

The line will then continue North on Grandview Street to the intersection at Airport Road and Grandview Road. The boundary will run across the intersection and continue North on Tyler Heights. All of Tyler Heights will be considered within this section.

At the point where Grandview Street, Tyler Heights and Airport Road intersect the boundary will pick back up and proceed Southwest along Airport Road. This will include the development just South of the intersection to Tyler Heights. The line will continue South along Airport Road to the intersection of Airport Road and Holly Street (S.R. 1510). At this intersection continue West on Holly Street to Mountain Street. Included will be all properties on Mountain Street and Pine Crest Drive. The boundary will then continue at the Mountain Street and Holly Street intersection.

The border will then follow Holly Street West from Mountain Street to Garden Creek Road where the line will follow Garden Creek Road North to U.S. Hwy. 70/221. The line will then proceed South on U.S. Hwy. 70/221 until it meets the current City Limits.

#### SECTION V.

The boundary will proceed North on U.S. Hwy. 70/221 to the Catawba River. The line will then follow the Catawba River West until it is at a point due North of the McDowell County High School and Junior High School property. At that point, the boundary will proceed from the river due South to the Northwest corner of the McDowell County school property.

Following the most Westerly boundary along the McDowell County school property, the line will continue South until it bends around and meets the Northwest corner of the lots which is contiguous to U.S. Hwy. 70/221. The line will then pick-up at that point along U.S. Hwy. 70/221 and runs along the highway South until it reaches the current City Limits.

This boundary will include all of Bradley Road and extensions to, and all accesses to, which lie on the West side of U.S. Hwy. 70/221.

#### SECTION VI.

The boundary will follow U.S. 70/221 North to Valley Street and will then continue West following Valley Street. Valley Street runs directly into Reservoir Road. This line will then proceed along Valley Street/Reservoir Road including all properties along Hill Street, Reservoir Road Extension and Grove Street (S.R. 1212).

Following Grove Street West to the dead-end, the boundary will follow property lines West across the North boundary of lots on Greenlee Road, Old Greenlee Road, and Gilbert Street to the intersection of S.R. 1214 and S.R. 1197.

The line will then continue South along S.R. 1197 to Tate Street where the current City Limits lie.

#### SECTION VII.

The line will follow Lucky Street from Greenlee Road South Southwest to the dead-end and will then proceed along property lines South to the intersection of Southern Railroad tracks and S.R. 1196.

The boundary will then continue South along the tracks until it reaches the current City Limits.

#### SECTION VIII.

The Western boundary on this section will follow the West boundary of the City Shop property on its West side South until it reaches the ridgeline. The line will then follow the ridge peak South Southeast until it bends toward the highway. It will then follow the natural curve of the ridge and end at U.S. Hwy. 221/N.C. 226. The line on the North side will be Young's Creek and on the South side of the ridge. The South boundary on the ridge will run parallel to the creek.

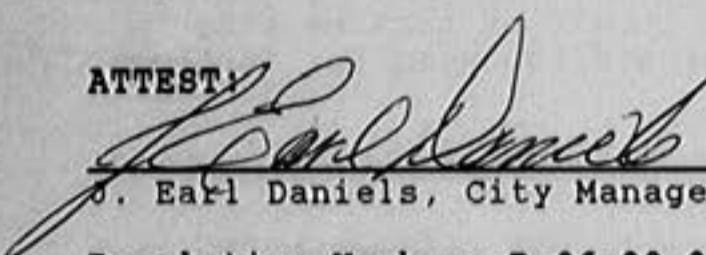
This section will include all properties which lie on the South side of Young's Creek and to the North of the ridge.

Section 2. That a copy of this Resolution shall be filed with the Marion City Clerk.

Adopted this the 5th day of March, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-96-03-05-1

#### A RESOLUTION IDENTIFYING THE AREA DESCRIBED HEREIN AS BEING UNDER CONSIDERATION FOR ANNEXATION

BE IT RESOLVED by the City Council of the City of Marion:

Section 1. That pursuant to G.S. 160A-37 (i), the following described areas are hereby identified as being under consideration for future annexation by the City of Marion, under the provisions of Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina.

The description below is in reference to the map which will be certified as the actual area under consideration. This map will be placed on display in the Office of Community Development and Zoning and the City Clerk.

This RESOLUTION OF CONSIDERATION will include the described areas which are contiguous on this the 5th day of March, 1996 to properties described in a RESOLUTION OF CONSIDERATION adopted April 19, 1994.

Areas under consideration will include all properties which are either contiguous to, have access to, or are in development which are directly connected to the streets listed as boundaries. This is to be understood unless otherwise stated. This description will include all properties which lie between these listed boundaries and the area currently under consideration as noted above.

#### DESCRIPTION OF AREA UNDER CONSIDERATION

BEGINNING at a point located at the intersection of U.S. Highway 70 East and the center of the bridge over Southern Railway. Thence in a straight line, traveling in a southerly direction, to the center of the bridge at the intersection of Fairview Road (SR 1741) and Interstate 40. Thence in a straight line, in a southerly direction, to a point 2600 feet south of Interstate 40 located on N.C. Highway 226 South. Thence following a line 2600 feet south of and parallel to

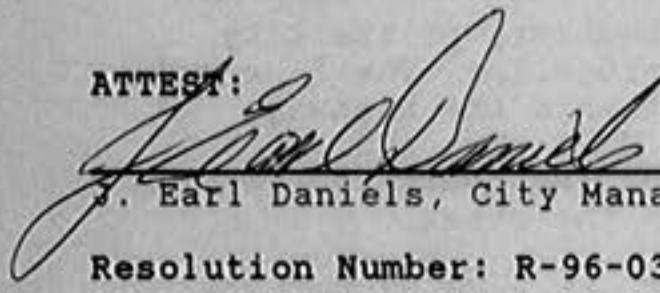
Interstate 40, in a westerly direction, to a point where said line intersects with Marler Road (SR 1257). Thence following Marler Road (SR 1257) in a northerly direction to its intersection with Zion Hill Road (SR 1137). Thence following in a straight line, in a northerly direction, to a point on Interstate 40 located 1300 feet west of Nix Creek Road (SR 1191). Thence following a line 1300 feet west of and parallel to Nix Creek Road (SR 1191) in a northerly direction until it meets a tributary of the Catawba River. Thence following the Catawba River until it intersects with the Southern Railroad and Old Greenlee Road (SR 1214). Thence in a straight line in a northwesterly direction to a point located 650 feet west of the end of Waycaster Road (SR 1319). Thence in a straight line in a northerly direction to a point located 650 feet west of the end of Clear Creek Road (SR 1422). Thence following a line 650 feet north of and parallel to Clear Creek Road (SR 1422) in an easterly direction to a point located 650 feet west of Lake Tahoma Road (N.C. Highway 80). Then following a line 650 feet west of and parallel to Lake Tahoma Road (N.C. Highway 80) to a point 650 feet west of the intersection of Lake Tahoma Road (N.C. Highway 80) and Toms Creek Road (SR 1434). Thence following a line 650 feet west of and parallel to Toms Creek Road (SR 1434) in a northerly and easterly direction to a point located on U.S. 221 North 650 feet north of the intersection of U.S. 221 North and Toms Creek Road (SR 1434). Thence in a straight line in an easterly direction to the intersection of Cannon Road (SR 1553) and the CSXT Railroad. Then in a straight line in a southeasterly direction to the intersection of Hankins Road (SR 1501) and Yancey Road (SR 1501). Thence in a straight line in a southeasterly direction to the point of BEGINNING.

Section 2. That a copy of this Resolution shall be filed with the Marion City Clerk.

ADOPTED this the 5th day of March, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-96-03-05-2

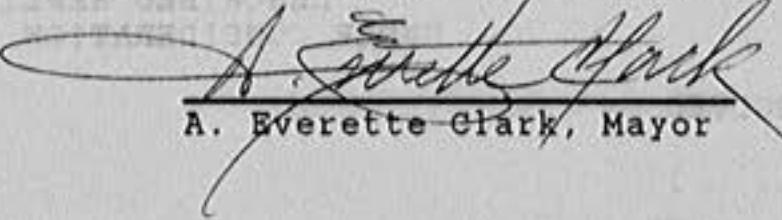
**COMMITTEE MEETINGS:** The City Manager advised that while attending the School for new Mayors and Council Members in Asheville, they were advised that any time Council Members or committees appointed by the Mayor or Council met to discuss any type of City business, the news media has to be notified forty-eight hours in advance of the meetings.

Dates and times of all Committee Meetings scheduled as a result of this meeting can be set now, while the news media is present and eliminate the need for further notification.

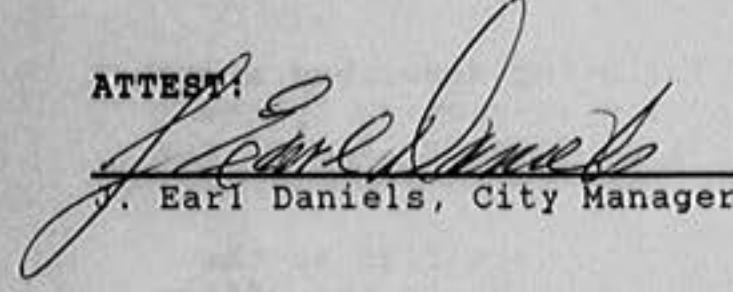
A discussion followed.

The dates, times and locations of all Committee meetings were set and announced.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn on March 5, 1996 at 9:00 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

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, March 19, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Tom Pruett, Chief of Police; Freddie Killough, Downtown Business Association Director; Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF.

**GUESTS PRESENT:** Becky Loftis, Walmart, Marion, N.C. 28752; Robert Cobb, Walmart, Marion, N.C. 28752.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to approve the Minutes of the March 4, 1996 Town Meeting and the March 5, 1996 City Council Meeting.

**DRAINAGE PROBLEM - MR. PAT COOK:** The City Manager advised that Mr. Pat Cook has a drainage problem at his residence on Forest Heights Drive. This problem was reported to Councilman Billy Martin. Upon investigation, City Personnel found that a number of holes have appeared in the side yard. They appear to have been caused by a drainage pipe from the street. The drainage boxes on the street have been sealed so no water runs from the street on the property. Ms. Cook would like for the City to dig out and find the problem or fill the holes with large stones. She said they had filled the holes on two occasions already without success.

The drainage pipe was most likely installed by the developer of the subdivision and then the streets turned over to the City for maintenance.

Mayor Clark suggested that Glen Sherlin, Public Works Director contact Mr. Everette Carnes. Mr. Carnes was the developer of this subdivision and may still have copies of the drainage system.

**REQUEST - ADVERTISEMENT DATE - 1995 REAL PROPERTY TAXES:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector advising that General Statute 105-369(c), requires the Tax Collector to advertise tax liens on real property at least once between March 1, 1996 and June 30, 1996.

Ms. Hill recommended advertising 1995 Real Property Taxes in the McDowell News, on Wednesday, May 1, 1996.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to advertise 1995 Real Property Taxes in the McDowell News on Wednesday, May 1, 1996.

**1995 UNPAID REAL PROPERTY TAXES:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector advising that General Statute 105-322(a), requires the Municipal Tax Collector to report to the governing board the total of unpaid taxes that are liens on real property.

Total unpaid taxes as of March 14, 1996 are \$87,077.43.

A list of each taxpayer owing 1995 Real Property Taxes is available upon request.

**DENSITY TEST - EAST GRAYSON STREET:** The City Council agreed to accept that portion of East Grayson Street, developed by Mr. Guy Jackson, for maintenance by the City upon a soil density test being made showing that proper compaction has been obtained. Mr. Jackson will be required to pay for the test(s).

**APPOINTMENTS MADE TO GRIEVANCE COMMITTEE - SUBJECT TO COUNCILS APPROVAL:** The City Manager advised that Appointments to the Grievance Committee need to be made.

The following Grievance Committee members served through December 31, 1995:

Marilyn Jackson  
Governor Conley  
Buck Byrd  
Tom Milligan  
Debbie Terrell

Police Chief Tom Pruett requested that Ms. Gaye Noblitt be appointed to the Committee to replace Debbie Terrell since she has resigned.

A discussion was held in reference to Department Heads serving on the Grievance Committee.

Councilman Edwards suggested that Department Heads or supervisors not be appointed since they represent management.

It was pointed out that the members represent the different departments of the City and include both females and minorities so that all groups are represented, including management.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted to re-appoint the members and add Ms. Gaye Noblitt to replace Ms. Terrell, and to review the Grievance Committee policy.

The vote was as follows:

Mayor Pro Tem Steve Little	Yes
Councilman Lloyd Cuthbertson	Yes
Councilman Mike Edwards	Yes
Councilman Billy Martin	Yes
Councilman Cecil Owenby	No

**RESOLUTION - ANNEXATION - MOREHEAD ROAD AREA:** Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to adopt the following Resolution:

**A RESOLUTION STATING THE INTENT OF THE CITY OF MARION  
TO CONSIDER ANNEXATION OF THE AREA DESCRIBED  
HEREIN AND FIXING THE DATE OF PUBLIC HEARING  
ON THE QUESTION OF ANNEXATION**

**BE IT RESOLVED** by the City Council of the City of Marion:

**SECTION 1.** That it is the intent of the City Council of the City of Marion, to consider annexation of the following described territory pursuant to Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina:

**BOUNDARY DESCRIPTION**

BEGINNING at a point in the current Marion City Limits, said point being in the western boundary of Lot 1806 on McDowell County Tax Map 1711.05, Block 17, thence following the western boundary of Lot 1806 in a southern direction approximately 12 feet to a point in the northern boundary of the Right-of-Way of Pine Grove Street; thence following the northern boundary of Pine Grove Street approximately 372 feet in a eastern direction to a point at the intersection of said Right-of-Way boundary and the western boundary of the Right-of-Way of Baldwin Avenue (SR 1703); thence following in a straight line in a southern direction approximately 20 feet to a point on the current Marion City Limits; thence following the current Marion City Limits for a distance of approximately 10,472 feet, first in a generally western direction, then in a generally southern directions, then in a generally western direction, then in a generally northern direction, then in a generally eastern direction to the point of BEGINNING.

**SECTION 2.** That a Public Hearing on the Question of Annexation of the above described territory will be held at the City Council Chamber at 7:00 o'clock, P.M., on the 7th day of May, 1996, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion, will be given an opportunity to be heard.

**Section 3.** That a report of plans for extending services to the above described territory be made available for public inspection at the Office of the City Clerk at least thirty (30) days prior to the date of said Public Hearing.

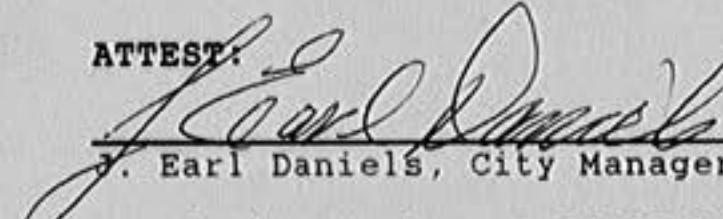
**Section 4.** That a legible map of the area to be annexed and a list of persons holding free-hold interests in property in the area to be annexed who have been identified to be posted in the Office of the City Clerk at least thirty (30) days prior to the date of said Public Hearing.

**Section 5.** That notice of said Public Hearing shall be given by publication and first class mail, as required by G.S. 160A-37.

ADOPTED this the 19th day of March, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-96-03-19-1

**RECREATION COMMITTEE - RECOMMEND ONE APPOINTEE:** Upon a motion by Council Martin, seconded by Councilman Cuthbertson, Council voted unanimously to recommend Ms. Shelia Westmoreland to the McDowell County Commissioners for appointment the Recreation Board.

**HABITAT - BID TABULATION - WATER/SEWER PROJECT:** The City Manager advised that re-advertisement for bids for the Water/Sewer Extension Project with Habitat for Humanity resulted in two bids being received.

Upon a motion by Council Cuthbertson, seconded by Councilman Martin, Council voted unanimously to accept the low bid of Hobson Construction Co., Inc., in the amount of \$22,500.

Bids received were as follows:

BIDDER	BID PRICE	BID SECURITY
Hobson Construction Co., Inc.	22,500	X
TENNOCA Construction CO.,	34,000	X
Engineers Estimate	30,000	

**CITY OF MARION - BID TABULATION - EQUIPMENT & SERVICE CONTRACTS:**

**SEALED BIDS - NEW UTILITY TRACTOR:** The City Manager advised that only one sealed bid was received for the Utility Tractor. The bid was not opened by the Purchasing Agent so Council could determine if they wished the bid opened.

It was suggested that since proposals were mailed to dealers and they chose not to bid, that re-bidding may not produce any additional bidders.

Council chose to open the sealed bid.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted to accept the bid of Marion Equipment for the Utility Tractor in the amount of \$13,509.10.

**SEALED BIDS - NEW FLUSHER TRUCK:** The City Manager advised that two sealed bids had been received for the new Flusher Truck.

The bids were as follows:

A. E. Finley and Associates Inc.	\$65,788.00
Carolina Truck Centers, Inc.	66,976.00

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the low bid of A. E. Finley for the New Street Flusher Truck in the amount of \$65,788.00.

**SEALED BIDS - CEMETERY MOWING CONTRACT:** The City Manager advised that three bids had been received for the Cemetery Mowing Contract.

The bids were as follows:

Turf Master	\$923.00 Per Week
Harold's Lawn Service	\$1,080.00 Per Week
Kelly's General Maintenance	\$800.00 Per Week

A discussion followed.

It was decided that the City Manager and Public Works Director should review the bids and make a recommendation to Council at the next City Council Meeting.

**SEALED BIDS - PAVING PROJECT:** The City Manager advised that two bids had been received for the Paving Project.

The Bids were as follows:

**Thompson Contractors Inc.:**

1 " Resurface per square yard -	\$2.19
1 1/4" Resurface per square yard -	\$2.63
1 1/2 Resurface per square yard -	\$3.15
Asphalt Curb- Per linear foot -	\$3.50
2 " New Surface	\$4.40
6" Base stone	\$4.32

**Callahan Paving:**

1 " Resurface per square yard -	\$2.63
1 1/4" Resurface per square yard -	\$2.92
1 1/2 Resurface per square yard -	\$3.40
Asphalt Curb- Per linear foot -	\$4.50
2 " New Surface	\$4.93
6" Base stone	\$3.23

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to accept the low bid of Thompson Contractors, Inc., as listed above.

**COMPLAINT - MARION POLICE DEPARTMENT - MS. BECKY LOFTIS, ASSISTANT MANAGER FOR WALMART:** Ms. Loftis advised Council that two detectives of the Marion Police Department had made appointments, at different times, to meet with an employee of Walmart regarding the theft of tractor mowing equipment but failed to show up for either of the appointments. The employee waited past her work shift and Walmart had to pay her for the time. Ms. Loftis also stated that she had received a phone call at approximately 4:00 A.M., at the Walmart Store, reference some employee(s) cars being parked in a Handicap Zone. She advised that at that time in the morning there is no one parking in the lot because the store is not open. The City Manager asked if the officer issued a ticket for the violation. She responded they did not. The City Manager advised that parking in a handicap zone is a violation of State Law and that to the best of his knowledge there is no time when parking is permitted, except by handicap persons.

Ms. Loftis informed the Council that she was not present representing Walmart but that she was concerned as a citizen about how the Marion Police Department handled this situation. Ms. Loftis advised that she had telephoned the Police Department but could never catch the Chief in and that he would not return her calls. She informed the Council that she had other complaints she would like to discuss with someone. Chief Pruett was present at the meeting and advised that he was not aware of the problems. Mayor Clark suggested that Ms. Loftis and Mr. Robert Cobb meet with Chief Pruett and that the Chief fully investigate this matter.

**APPROVAL OF PUBLIC NOTICE - BOARDS APPOINTED BY THE MARION CITY COUNCIL:** The Nominating Committee met last week and presented the following Committee/Board Nomination Form for Council's approval:

**CITY OF MARION  
COMMITTEE/BOARD NOMINATION FORM**

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 Telephone: Day: \_\_\_\_\_ Evening: \_\_\_\_\_  
 Ethnic Background: \_\_\_\_\_  
 Male: \_\_\_\_\_ Female: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
 Occupation: \_\_\_\_\_  
 Community Interests and Activities: \_\_\_\_\_

Please list all

Committees/Boards on which you wish to serve:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Suggestions or Comments: \_\_\_\_\_

Signature: \_\_\_\_\_

Please Return to : Ms. Debi Laughridge  
 Secretary to the City Manager  
 P.O. Drawer 700  
 Marion, North Carolina 29852

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the form with the following change.

Under the section of the form asking to list names of all Committees/Boards on which you wish to serve, to replace this section with names of all the Committees only checking the ones you wish to serve on.

**APPROVAL OF OFFICIAL BALLOT - MUNICIPAL SERVICE DISTRICT:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following ballot:

**OFFICIAL BALLOT**  
**DOWNTOWN BUSINESS ASSOCIATION**  
**MUNICIPAL SERVICE DISTRICT**

I am a Landowner \_\_\_\_\_ Business Owner and/or Manager \_\_\_\_\_  
 (Check all that apply)

I think the Downtown Business Association does a good job and should continue.  
 Yes \_\_\_\_\_ No \_\_\_\_\_

I do not object to paying the Special \$.12 Tax. \_\_\_\_\_

I do object to paying the Special \$.12 Tax.       

I think the boundary of the Municipal Service District should remain as it is now.  
Yes        No       

\_\_\_\_\_  
Signature

NO RESPONSE WILL BE TAKEN AS APPROVAL OF THE EXISTING MUNICIPAL SERVICE DISTRICT BOUNDARY AND THE SPECIAL SERVICE DISTRICT TAX.

This Ballot must be returned to the Marion City Manager, at City Hall, no later than 10:00 A.M., Monday April 1, 1996.

**WATER/SEWER - CLEARWELL - EXTENDED WARRANTY:** The City Manager presented Council with the following Agreement.

EXTENDED WARRANTY AGREEMENT  
BETWEEN  
CITY OF MARION  
AND  
HICKORY CONSTRUCTION COMPANY, INC.

Hickory Construction Company, Inc. hereby agrees to provide as stated herein the following extended warranty for the 1.0 million gallon clearwell constructed by Hickory Construction Company at the City of Marion's Water Treatment Facility:

Hickory Construction Company will provide a twenty (20) year warranty for the subject tank specifically related to the significant cracks located on the top slab and walls of the structure. Significant cracks shall be defined as those cracks with a measurable width of 20 mils (0.02 inch) or more. Any such cracks noted during predetermined inspection cycles shall be repaired in accordance with the repair method previously used in the repair of the subject tank. This method included the routing of the crack, placement of sealant into routed area, bond breaker tape over cured sealant, and a 1/16 inch thick watertight coat with repair mesh.

Inspections of the tank will occur every five (5) years and will be attended by City of Marion, Hickory Construction Company, and McGill Associates, P.A. The cost for any repair deemed necessary by these inspections and in accordance with this agreement shall be borne by Hickory Construction Company. Any repairs deemed necessary between the twentieth (20th) and twenty-fifth (25th) years shall be shared equally between the City of Marion and Hickory Construction Company.

It is further agreed that the City of Marion will not assess liquidated damages against Hickory Construction Company specifically for work related to this project.

ACCEPTED BY  
CITY OF MARION

ACCEPTED BY  
HICKORY CONSTRUCTION COMPANY

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Mayor

Title: Vice President

Date:

Date:

The City Manager advised that at 6:30 P.M. this afternoon, he was advised by Danny Bridges, of McGill Associates that Hickory Construction Company had refused to sign this agreement.

A discussion followed.

McGill Associates will be working with Hickory Construction Company on another Agreement which will be presented to Council at a later date.

**NORTH GARDEN STREET - POSSIBLE HAZARDS:** The City Manager advised that he had received several complaints about the trees on North Garden Street across from WBRM Radio. The trees are old and created some problems during the last Ice Storm. Some residents were without power and one vehicle was struck by a limb that fell from one of the trees.

The City Manager had been in contact with Mr. Tony Moore, District Engineer, with the North Carolina Department of Transportation, since this is a State maintained road, in reference to the damages of said vehicle.

The Department of Transportation assumes no responsibility for these damages.

The City Manager advised that the City of Marion also assumes no responsibility for these damages.

Council instructed the City Manager to contact the property owners about the

possible removal of the trees.

**PAY PLAN - DISCUSSION:** Mayor Clark informed the Council that he had asked the Manager to place this item on the Agenda. The Mayor recommended that the City request the League of Municipalities to send someone to speak to Council about a proper pay plan for the City. Councilman Edwards advised that he had reviewed the pay plan he had presented to Council. He informed the Council that after reading the Editorial in the McDowell News he thought he should amend his plan to provide a flat increase to each employee, excluding management, in the amount of \$600.00. Councilman Edwards made a motion that his pay plan be approved and the City tax rate be cut from \$.55 to \$.525. Councilman Owenby said that he would second the motion if Councilman Edwards would amend his motion to deal only with the pay plan and not a tax cut. Mr. Owenby advised that he believed the City should increase the Reserve Fund to protect the City from future financial problems. Councilman Edwards amended his motion to approve his pay plan only. This motion was seconded by Councilman Owenby. The motion failed on a three to two vote. Following a short discussion, it was agreed by majority vote, to invite a representative of the North Carolina League of Municipalities to speak to Council about a Pay Plan and to meet in Special Session on Tuesday April 9, 1996 at 7:30 P.M. in the City Hall to discuss employee salaries for the fiscal year 1996-97.

**NORTH CAROLINA LEAGUE OF MUNICIPALITIES - PUBLIC HEARING -ANNEXATION:** The City Manager advised that a Public Hearing on Annexation will be held in the Legislative Building in Raleigh on Thursday March 21, 1996

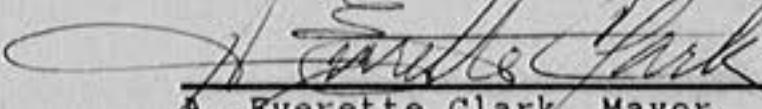
**UTILITY COMMITTEE MEETING:** The Utility Committee will meet at 8:30 A.M. on Tuesday morning March 26, 1996 to discuss the Water/Sewer request for the proposed trailer park near the City of Marion Water Intake on Buck Creek.

The News Media was invited to attend this meeting.

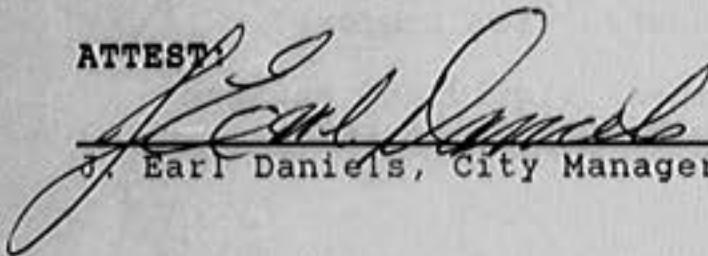
**COUNCILMAN EDWARDS:** Councilman Edwards advised that he had received several complaints about the lights on the track at East Junior High School that is open to the Public.

Councilman Edwards ask if the City Manager would contact Mr. Wayne Silver, to request that something be done, for security reasons for the Citizens who use this facility.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Edwards, seconded by Councilman Martin, Council voted unanimously to adjourn on March 19, 1996 at 10:20 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, April 2, 1996 at 7:00 P. M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Steve Little, Billy Martin and Cecil Owenby.

Councilman Mike Edwards was not present for this meeting due to personal commitments involving jury deliberation on a murder trial in McDowell County.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Freddie Killough, Downtown Business Association Director; Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF.

**GUESTS PRESENT:** Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Mary Dysart, Route 4, Box 1152 Marion, N.C. 28752; Lucile Morgan, Route 4, Box 1130 Marion, N.C. 28752; Louise Bryon, 2545 Hwy. 70 West Marion, N.C. 28752; Nina Greenlee, Route 1, Box 182 Old Fort N.C. Marion N.C. 28752; Myles Brooks, 121 Harmony Grove Road Nebo, N.C. 28761; Patrick Kelly, Route 1 Box 602 Nebo, N.C. 28761; Brian Kelly P.O. Box 553 Marion, N.C. 28752; Rocky Williams 124 North Garden Street Marion, N.C. 28752; Randy and Virginia Williams 124 North Garden Street Marion, N.C. 28752;

**APPROVAL OF MINUTES:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to approve the Minutes of the March 19, 1996 City Council Meeting.

**PRESENTATION OF PLAQUE - MR. WARREN HOBBS:** Mayor Clark presented a Plaque to Mr. Warren Hobbs on behalf of the Marion City Council. The Plaque read as follows:

Presented To  
WARREN HOBBS

In Grateful Recognition of Outstanding  
Public Service Faithfully Rendered  
To The  
City of Marion  
By Order of the Mayor and City Council  
Of The City of Marion, North Carolina  
This the 2nd Day of April, 1996

Mayor Clark, Council Members and the City Manager all commended Mr. Hobbs for the years of service he had given to the City of Marion.

**TREE HAZARD - NORTH GARDEN STREET - RECOMMENDATION:** The City Manager advised that according to Forest Ranger John Reese, the trees on North Garden Street are in a declining state of health and have reached their maturity.

The City Manager and Public Works Director Glen Sherlin looked at the trees on North Garden Street again this date. Mr. Randy Williams was there and requested that the City of Marion have all limbs removed above the highest power line and not remove the trees. Mr. Williams stated that the trees in front of his residence was one of the major factors his family considered when purchasing their home. They do not want to see the trees removed.

The City Manager gave Council a drawing showing what the trees would look like after they are trimmed.

The City Manager advised that he would contact Duke Power to request that they trim the trees, to protect their power lines.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve Mr. Williams request.

**MUNICIPAL PAY PLANS - MR. EUGENE B. DILLMAN, DIRECTOR OF PERSONNEL AND EMPLOYEE RELATIONS, N.C. LEAGUE OF MUNICIPALITIES:** The City Manager introduced Mr. Gene Dillman, Director of Personnel and Employee Relations for the N.C. League of Municipalities. Mr. Dillman earned his B.A. from Methodist College and his M.P.A. from the University of North Carolina at Geensboro. Mr. Dillman has served in various positions in the personnel departments in Forsyth and Wake Counties. He joined the League staff in 1983.

Mr. Dillman presented Council with information regarding position classification and pay plans for Municipalities and advised that the N.C.L.M. would be happy to contract with the City to prepare a Classification and Pay Plan to include other personnel matters including compliance with FSLA and ADA.

**CEMETERY CARE BIDS - STAFF RECOMMENDATIONS:** It is the recommendation of the City Manager and other City staff that the bid for mowing the Cemetery be awarded to Mr. G.K. Mease. Mr. Mease has been caring for the Cemetery for six years and has done a tremendous job. The City Manager advised that this decision was not based on what Mr. Kelly of Kelly's General Maintenance could or could not do, but on the job Mr. Mease of Turf Masters has done for the past six years.

The City Manager stated that Mr. Kelly is apparently just starting out in the lawn care business and has little, if any, experience in mowing cemeteries.

A discussion followed.

Councilman Little made a motion to accept the bid of G.K. Mease of \$923.00 based on the recommendation of the City Manager and City Staff.

The motion died from the lack of a second.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Little, those members of Council present voted unanimously to accept the low bid of Brian Kelly of

\$800.00 per week for maintenance of the Oak Grove Cemetery.

Mayor Clark and Council expressed to Mr. Kelly the importance of maintaining the Cemetery in a proper manner.

**DRAINAGE PROBLEM - FOREST HEIGHTS DRIVE:** The City Manager advised that it was suggested at the last City Council Meeting, that the Public Works Director contact Mr. Everette Carnes to see if he had a map of the storm drainage system for property he had developed on Forest Heights Drive.

Mr. Carnes did not have a map, however based on his memory, a catch basin was installed on one side of the street with a pipe under the street which extended several feet beyond the edge of the street and stopped, near the property now owned by Mr. Pat Cook. Water running from the street through the pipe was discharged into an open ditch. Dr. Chung informed the City Manager that when he was building a driveway to his residence the area between his residence and what is now the Cook Residence was filled. He advised that the City put the pipe in at that time.

This matter was discussed with Street Superintendent, Aaron Adams and long time employee Bud Stamey and no one remembers the City installing this pipe. It is possible that water from the street may have added to the problem several years ago, but since the catch basin was filled with concrete no water from the street has entered the pipe.

The City Manager recommended that the City agree to fill the hole with broken concrete or large rock and back-fill one time, with the understanding that no water from the street is entering the property through the drainage pipe which has been blocked. There is also a fence on this property. The City will not be responsible for removing or replacing the fence. Once this work is complete the City would not accept any responsibility in the future.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted unanimously to approve the recommendation of the City Manager as stated above.

**ABC BOARD - APPOINT OR REAPPOINT - ONE MEMBER:** Upon a motion by Councilman Martin, seconded by Councilman Little, those members of Council present voted to reappoint Mr. Robert Teeter to another three year term on the ABC Board. Term to end April 1999.

Listed below is the ABC Board and their terms of Office:

Doris Hill	(3) Year term to end - April 18, 1997
Harvey Parker	(3) Year term to end - April 18, 1998
Robert Teeter	(3) Year term to end - April 18, 1999

**DBA MUNICIPAL SERVICE DISTRICT - SURVEY RESULTS:** The City Manager presented Council with a summary of the results from the Survey mailed to all persons in the Municipal Service District.

The City Manager advised that 177 surveys were mailed out with 74 responses.

Mayor Clark suggested that Council Members study the survey results and hold a discussion at the next Regular Session of City Council.

Council agreed to study the survey.

**RESOLUTION - AGREEMENT - DOT BEAUTIFICATION PROJECT:**

**SUGAR HILL AND MARION BY-PASS:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

**RESOLUTION  
CITY OF MARION**

WHEREAS, the Department and the City of Marion agreed to the installation of certain landscape plantings along US 221 Bypass and Sugar Hill Road (SR 1001) in Marion; and,

WHEREAS, the Department shall be responsible for the design of the landscape plans, preparation of the site, and installation of the plant materials; and,

WHEREAS, the Municipality shall be responsible for any necessary right of way, easements and/or utility adjustments, as well as traffic control for the project; and,

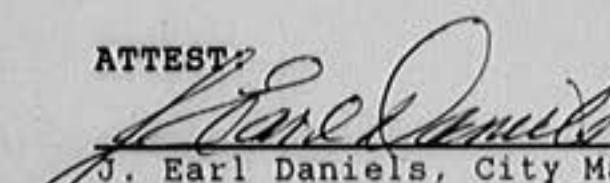
WHEREAS, the Municipality shall be responsible for all maintenance and replacement of the landscape materials, after a one-year establishment period.

NOW, THEREFORE, BE IT RESOLVED that Project E-2973 M, McDowell County, is hereby formally approved by the City of Marion and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

ADOPTED this the 2nd day of April, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number - R-96-01-02-1

**WATER SYSTEM EXTENSION POLICY OUTSIDE CITY LIMITS:** The City Manager presented a draft of a new proposed Water system extension policy to the Mayor and Council. A discussion followed.

Council agreed they would like a copy of the present Policy on Water System Extensions outside the City Limits to compare to the new proposed policy.

**PERMISSION REQUESTED - LOCATE ARCHERY RANGE:** The City Manager advised that Mr. Mike Wise was present for this meeting and would like permission to locate an Archery Range in the upstairs area of the Old Clinchfield Mill.

Upon a motion by Little, seconded by Councilman Owenby, those members of Council present voted unanimously to approve this location request.

**ANNEXATION REPORT - MOREHEAD ROAD:** The City Manager presented Council with copies of the Annexation Report on Morehead Road and advised that copies are available for public inspection.

**SEWER BILL - REQUEST FOR ABATEMENT:** The City Manager advised that a letter was received from Ms. Wanda Creson requesting the abatement of a sewer bill for a property located on Forsythe Street. The property is not served by City Water but does have City sewer service. A flat rate of \$12.00 per month is charged for the sewer service. The City has no record of persons moving in or out since water service is not available. Ms. Creson advised that the house has not been occupied in approximately five years but that her daughter moved into the house on February 20, 1996. Her daughter as of this date has not requested the service be changed.

Ms. Creson presently owes \$187.00 as of March 28, 1996 representing service from October 1995 through March 1996.

It is the recommendation of the City Manager that Council waive \$175.00, upon Ms. Creson or her daughter changing the service to the proper name and paying the bills beginning as of March 1, 1996.

Upon a motion by Councilman Cuthbertson, seconded by Council Owenby, those members of Council present voted to accept the recommendation of the City Manager as stated above.

**TAX REFUND:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector, requesting Council to refund \$46.33 to Ms. Gladys Hutchins.

The McDowell County Tax Department notified Ms. Hill that Ms. Hutchins is eligible for the Senior Citizen Exemption on her property and the mobile home she resides in. Since 1992 she has received the exemption on the real property, but has received a bill for taxes on the mobile home. The taxes have been paid in full each year.

Upon a motion by Council Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to accept the recommendation of the Tax Collector.

**AGREEMENT - DOT MOWING AGREEMENT:** Upon a motion by Councilman Martin, seconded by Councilman Little, those members of Council present voted unanimously to approve the following Agreement:

STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL

DEPARTMENT OF TRANSPORTATION  
AND  
CITY OF MARION

AGREEMENT

THIS AGREEMENT, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 1996, by and between the Department of Transportation and the City of Marion hereinafter referred to as the City:

W I T N E S S E T H

THAT, WHEREAS, the Department 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:

Routine mowing on designated routes as outlined in the attached document dated March 13, 1996, McDowell County.

2. The City shall furnish all the necessary personnel, labor, equipment, and material for the performance of said work.
3. In consideration of the performance of said work, the Department shall reimburse the City upon receipt of an invoice detailing the cost incurred and number and type of mowing cycles. Payment will be made in a single lump-sum amount at the end of the mowing season.
4. reimbursement for the performance of said work will be \$452.32 for each cycle. A total of four cycles is anticipated; however this is dependent upon the growth during the mowing season.
5. This agreement is entered into and executed by the State Highway Administrator on behalf of the Department of Transportation in accordance with G.S. 136 of the N.C.G.S. and G.S.143B-24 where applicable.

CITY OF MARION

DEPARTMENT OF TRANSPORTATION

By \_\_\_\_\_  
(SEAL)

By \_\_\_\_\_  
State Highway Administrator

Approved As To Form and Execution  
MICHAEL F. EASLEY, Attorney General

By \_\_\_\_\_  
Attorney General

Reimbursable Agreement - Mowing

Streets

Rd. #	FROM	TO	LENGTH	SHOULDER	COST/CYCLE	
				MILES		
US 70	US 221B	E. City L.	1.84	3.68	\$80.96	
US 70E	US 221B	Hillcrest	0.16	0.32	7.04	
US 70 W	US 70	SR 1500	0.22	0.44	9.68	
US 221B	US 70E	City L.	1.84	3.68	80.96	
US 221B	S. Main	City L.	1.70	3.40	74.80	
SR 1001	US 221B	City L.	1.51	3.02	66.44	
SR 1195	US 221B	SR 1206	0.58	1.16	25.52	
SR 1500	N. Garden	City L.	0.60	1.20	26.40	
SR 1501	SR 1500	City L.	0.20	0.40	8.80	
SR 1325	SR 1323	City L.	0.77	1.54	33.88	
SR 1195	SR 1206	City L.	0.70	1.40	30.80	
SR 1818	US 70	State St.	0.16	0.32	7.04	
					-----TOTAL	20.56
					\$452.32	

For four cycles the total amount is \$1,809.28.  
Depending on the growth, the City will mow more or less cycles.

**ROTARY CLUB - COUNCILMAN CUTHBERTSON:** Councilman Cuthbertson advised that the Rotary Club is requesting permission to re-work the stepping stones leading from the upper parking lot of the Marion Community Building down to the lower parking lot. This would be at no cost to the City of Marion.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted unanimously to approve this request.

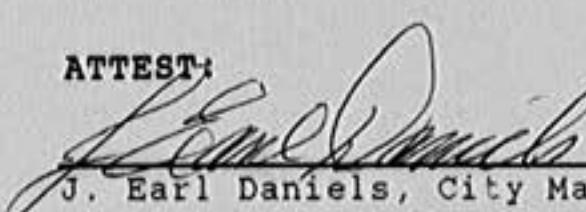
**AGREEMENT - DEPARTMENT OF CORRECTIONS INMATES TO CLEAN DITCHES INSIDE THE CITY LIMITS:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to have agreements prepared for property owners, owning property which abuts a branch or ditch, authorizing inmates from the prison to go on their property to help clean out debris and cut limbs and brush which impedes the flow of water in the branches and/or ditches.

**COMPLAINT - STREET LIGHTS:** Councilman Owenby advised that he had received a phone call requesting the City to check the Street lighting on Tank Street in the Clinchfield area.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adjourn on April 2, 1996 at 10:00 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

PER -  
D. Laughridge

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Special Session on Tuesday evening, April 9, 1996 at 7:30 P. M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Billy Martin, Mike Edwards and Cecil Owenby.

Councilman Steve Little was not present for this meeting due to an illness in his immediate family.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Police Chief Tom Pruett; Roger Watson, News Reporter, The McDowell News; and Tom Wilson, News Reporter, WDLF.

**RESOLUTION - ADDING STREETS TO CITY STREET SYSTEM:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted unanimously to adopt the following Resolution:

CITY OF MARION

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
1202	Webb Street	.06 miles
1203	Oliver Street	.04 miles
1204	Cross Street	.03 miles
1205	Carson Street	.27 miles

Clinchfield Area

1514	Ridge Road	.46 miles
1516	School Street	.30 miles
1517	Church Street	.40 miles
1518	Main Street	.12 miles
1519	Circle Street	.30 miles
1520	Circle Street	.10 miles
1521	Short Street	.10 miles
1522	Virginia Road	1.10 miles
1527	Hill Street	.28 miles
1528	Branch Street	.32 miles
1529	Fourth Street	.29 miles
1530	Fifth Street	.31 miles
1531	Sixth Street	.20 miles
1532	Seventh Street	.30 miles
1533	Lamar Street	.15 miles
1590	Martin Street	.10 miles

AMERICAN STATION TO STATE  
DEPARTMENT OF TRANSPORTATION  
NOTIFICATION TO STATE

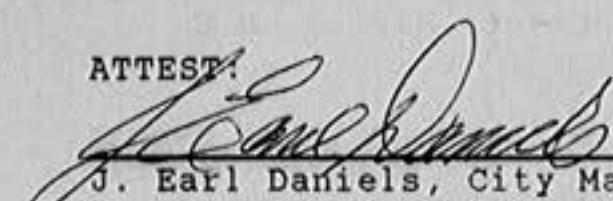
East Marion Area

1709	Ridge Street	.16 miles
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Adopted this the 9th day of April 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

R-96-04-09-1

**EMPLOYEE SALARIES FOR FISCAL YEAR 1996-97:** The City Manager presented three proposed Pay Plans for the fiscal year 1996-97. One plan was prepared by Councilman Edwards, one by Councilman Cuthbertson and the third by City Staff.

The City Council discussed each of the proposed plans.

Councilman Edwards stated that in his opinion salaries are escalating at too great a rate and suggested that a flat amount of \$600.00 for each employee be approved. He informed the Council that giving a per cent increase across the board provided a much greater salary increase to higher paid employees.

DAL

Councilman Cuthbertson informed the Council that the City could save a considerable amount of money by providing Bonuses for merit instead of per cent increases to salaries which compounds the increases over the years.

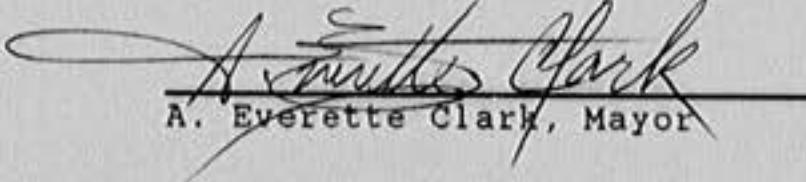
Following a lengthy discussion about the pros and cons of a Pay Plan and the different proposals, Councilman Martin made a motion to give each employee a flat annual increase of \$600.00, beginning in July 1996, plus a 2% maximum merit, as a bonus, the exact amount of merit to be determined by the Department Heads and City Manager, the merit to be given one-half in July and one-half in January 1997. Councilman Edwards seconded this motion and then made a substitute motion to exempt the City Manager, Public Works Director, Chief of Police, Fire Chief and Chief Water Plant Operator from the merit bonus. This motion was seconded by Councilman Owenby. Following a short discussion Councilman Edwards advised that he would like to withdraw his substitute motion. Councilman Owenby agreed to withdraw his second.

The Council then voted on the original motion by Councilman Martin and seconded by Councilman Edwards to provide a flat \$600.00 annual increase to each employee, with a merit bonus of up to a maximum of 2% for each employee, the exact amount of merit to be determined by the Department Heads and City Manager. All Council members present voted in favor of the motion.

**CLASSIFICATION AND PAY PLAN:** The City Manager informed Council that the North Carolina League of Municipalities has agreed to prepare a Classification and Pay Plan to include other personnel matters regarding FLSA and ADA at a contract price of \$8,334.00.

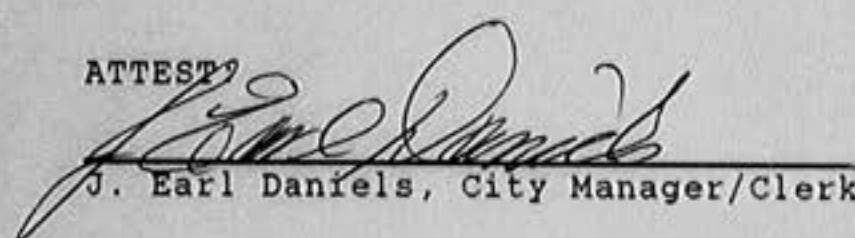
Following a short discussion the Council decided to discuss this matter at the next regular meeting.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members present voted unanimously to adjourn 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, April 16, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**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; Tom Wilson, News Reporter, The McDowell News.

**GUESTS PRESENT:** Mr. & Mrs. Bob Gourley, 115 Broad Street, Marion N.C. 28752; Mr. Bill Kehler, Post Office Box 237 Marion, N.C. 28752; Kaye Cuthbertson, 201 Broad Street Marion, N.C. 28752; Chineeta McGuire, 110 Catawba Street, Marion, N.C. 28752; Woody Killough, Marion, N.C. 28752.

**APPROVAL OF MINUTES:** Upon a motion by Cuthbertson, seconded by Councilman Owenby, those members of Council present voted unanimously to approve the Minutes of the April 2, 1996 City Council Meeting and the minutes of the April 9, 1996 Special Session.

Councilman Edwards arrived for this meeting at 7:08 P.M. after the approval of the Minutes.

**SEWER CONNECTION FEES - BILL KEHLER:** The City Manager advised that an application was filed on behalf of Mr. Bill Kehler by England Builders Inc. on October 30, 1991. A hand written note on the application read that the sewer tap fee would cover any additional business on the same property in the future, with each one to pay the system development charge at the time of construction.

Mr. Bill Kehler was present for the meeting to request a sewer connection for a new Comfort Inn Motel.

The sewer connection fee for a three (3) inch metered water service is \$8,250.00.

under rates adopted and effective as of April 20, 1993. The City Council, at staff request, eliminated showing the tap fee and the system development charge separately because an explanation had to be given to each person requesting a sewer connection about the difference between a tap fee and a system development charge.

The City Manager explained to Mr. Kehler that the City combined the two charges into one fee, a Sewer Service Connection Fee.

The City Manager advised that the City should honor the statement written on the application and charge \$7,500.00 for the new service, since that was the system development charge at the time of the original request for service.

Mr. Kehler advised Council that the City no longer has a System Development Charge and that he should not have to pay anything for the sewer service connection.

The City Manager stated that Mr. Kehler is playing with words. He advised that the City did not do away with the System Development Charge that it was combined with sewer connection fee and that in his opinion, Mr. Kehler should pay the System Development Charge in effect at the time of the original sewer connection.

Council agreed that technically, Mr. Kehler was right.

Upon a motion by Councilman Edwards, seconded by Councilman Owenby, Council voted unanimously to approve Mr. Kehler's request that the City honor the agreement made in 1993 by a hand written note by the Public Works Director and make no charge for the sewer service connection.

**DOWNTOWN BUSINESS ASSOCIATION - REQUEST TO HOLD THREE YARD SALES ON MAIN STREET:** Ms. Freddie Killough, Downtown Business Association Director, presented Council with a memo requesting permission to hold the May, August and November Downtown Sidewalk Yard Sales.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve Ms. Killough's request.

**WATER SYSTEM EXTENSION POLICY OUTSIDE CITY LIMITS:** The City Manager recommended that the Utility Committee study the proposed Water System Extension Policy prior to action by Council.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to refer this matter to the Utility Committee.

**WARRANTY AGREEMENT - HICKORY CONSTRUCTION COMPANY - CLEARWELL WATER TREATMENT**

**FACILITY:** The City Manager presented Council with a letter from Hickory Construction Company. In this letter Hickory Construction Company agreed to provide a one (1) year warranty and \$7,500.00 for the subject tank specifically related to the significant cracks located on the top slab and walls of the structure. Significant cracks shall be defined as those cracks with a measurable width of 20 mils (0.02 inch) or more. Any such cracks noted during the one (1) year period shall be repaired in accordance with the repair method previously used in the repair of the subject tank. This method included the routing of the crack, placement of sealant into routed area, bond breaker tape over cured sealant, and a 1/16 inch thick watertight coat with repair mesh.

The one (1) year warranty period will be October 15, 1995. An inspection of the tank would be conducted at the end of the warranty period to determine if any repairs are needed. This inspection will be attended by the City of Marion, Hickory Construction Company and McGill Associates, PA. The cost for any repair deemed necessary by this inspection shall be borne by Hickory Construction Company.

A discussion followed.

The City Manager advised that Hickory Construction Company contends that they built the Clearwell in accordance with the Engineers specifications. Sutton Kennerly was the Engineering Firm that designed the clearwell.

The City Manager advised that Mayor Clark and the Manager met with representatives of Hickory Construction Company and representatives of McGill Associates about the warranty. It was agreed that McGill Associates would meet with Sutton-Kennerly about their participation in the warranty, along with McGill Associates and Hickory Construction Company.

The Manager stated that in his opinion, the City needs a warranty covering the expected life of a concrete clear well, a period of twenty years, without the City having to pay for any repairs during that period of time.

Council decided to hold this matter until the next Regular Scheduled City Council Meeting.

**REQUEST - MARION FIRE DEPARTMENT TO BE NAMED BURNING PERMIT AGENCY TO COUNTY AGENCIES:** The City Manager presented a memo from Mr. Thomas Milligan, Fire Chief, stating that Mr. John Reese, McDowell County Forest Ranger, is requesting that the

Marion Fire Department be a burning permit agency with Chief Milligan being the Agent.

Since the Sheriff's Department and the U.S. Forest Service offices have moved, there is no central location where the Public can go to obtain a burning permit for areas outside the City.

The State of North Carolina will pay \$.15 for each permit written and will pay this fee once a year.

According to Mr. Reese there would be no liability to the Fire Department, Chief Milligan or to the City of Marion.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to approve this request contingent upon having written documentation that the City and City Firemen would have no liability in connection with this service.

**MUNICIPAL TAX DISTRICT SURVEY RESULTS:**

Councilman Little arrived for this meeting at 8:00 P.M. during the discussion of the Municipal Tax District.

The results of the Municipal Tax District Survey are as follows:

177 Copies of Survey Mailed - 74 Copies of Survey Returned

55 Persons - Should Continue District

10 Persons - Should not Continue District

34 Persons - Does not Object to Paying the Tax

30 Persons - Does Object to Paying the Tax

41 Persons - Leave Boundary the Same

20 Persons - Change Boundary

A discussion followed.

Council agreed to take no action to change the Municipal Tax District, but did agree to revisit the issue in September or October 1996.

**AGREEMENT - PERSONNEL SERVICE - GENE DILLMAN:** A motion was made by Councilman Owenby, seconded by Councilman Edwards, not to accept the Agreement for Personnel Services with the North Carolina League of Municipalities.

A discussion followed.

The vote was as follows:

Councilman Edwards Yes  
Councilman Owenby Yes

Councilman Cuthbertson No  
Councilman Little No  
Councilman Martin No

A discussion followed.

A motion was made by Councilman Little that the City enter into the following agreement. This motion was seconded by Councilman Cuthbertson.

**MEMORANDUM OF AGREEMENT**

**PERSONNEL SERVICE**

**CITY OF MARION**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between the North Carolina League of Municipalities, an unincorporated association, hereinafter called "League", and the City of Marion, a municipal corporation of the State of North Carolina, hereinafter called "City".

**WITNESSETH**

In consideration of the amounts of money hereinafter agreed to be paid, and in consideration of the other conditions hereinafter agreed to by the City, the League offers to perform the following services:

**Scope of Services:**

See Attachment "A", Scope of Services, which is incorporated into and made a part of the Memorandum of Agreement by reference.

Time for Performance:

The time for performance will be approximately six (6) months. This study can be started in January, 1997 and completed by the end of May, 1997.

Costs:

The total cost of the proposed work is eight thousand three hundred and thirty-four dollars (\$8,334.00). This cost includes ten (10) copies of the completed study documents.

In consideration of the services performed by the League, the City agrees to abide by and perform the following:

The City will be billed for one (1) progress payment of \$4,167 and a final billing of \$4,167.00 when the project is completed and presented to the City. This cost includes ten (10) copies of the completed study document. The City agrees to remit payment to the League upon receipt of each of the statements referred to above.

If the terms of this contract are acceptable, please sign two (2) copies and return same to the League office.

SUBMITTED BY:

NORTH CAROLINA LEAGUE OF  
MUNICIPALITIESDavid E. Reynolds  
Executive Director

ACCEPTED BY:

CITY OF MARION

Name

Title

Date

**ATTACHMENT "A"**  
**SCOPE OF SERVICES**  
**PAY AND CLASSIFICATION STUDY**

Scope of ServicesPurpose of Study

The primary purpose of this study is to conduct a comprehensive pay and classification study for the City of Marion to include the following work study objectives:

- To study and evaluate all positions (regular, full-time) within the City for the purpose of determining the proper position classification and salary for each employee.
- To conduct a comprehensive salary survey of appropriate public and private sector organizations to determine that the City's salaries, benefits and wages are competitive within the applicable job market.
- To prepare current class specifications for each position class based upon current job duties and requirements, outlining appropriate ADA information and providing guidance in the establishment of "position history" files.
- To prepare a pay plan for the City as required to maintain a competitive system of salaries and wages.
- To identify those classes of positions that are "exempt" and "non-exempt" in compliance with the Fair Labor Standards Act of 1983 as amended in 1985. (F.L.S.A.)
- To conduct a total review of the City's personnel policies as required to implement a modern program of personnel administration.

Study Work Components1. Preparation of the Pay and Classification Plan Work Tasks

1.1 A thorough review of the City's present personnel system will be undertaken for purposes of staff orientation and to provide data and information to be used in the preparation of the classification and compensation plan and related personnel schedules and components for the City.

1.2 An initial group meeting will be held with the City officials and employees to discuss the various components of the study and to explain the study approach and methodology. At this meeting, employees will be provided with

position classification questionnaires and an ADA checklist to be completed by all departmental employees. A thorough review of the job questionnaire and ADA checklist will be conducted with the employees.

- 1.3 A comprehensive survey of existing employee positions will be undertaken through the use of the "job questionnaire and ADA checklist." This step will involve staff review of the completed position questionnaires and ADA checklist; a "field audit" wherein position questionnaires and checklists will be reviewed with employees at their place of work; and in addition, a meeting with each department Head will be held to review and verify information presented on the position classification questionnaire and checklist and to resolve any conflicting information and data. All single incumbent positions will be field audited and an appropriate sampling of multi-incumbent positions will be audited as necessary to determine job duties and responsibilities. It is anticipated that all employees will be interviewed but final determination is reserved until mutual agreement is reached.
- 1.4 Following the review and field audit of existing employee positions, a new or revised classification plan will be developed. Class specifications will be prepared for each of the separate classes recommended, and an index of class titles and related classification code will be developed.
- 1.5 Using the job questionnaire and checklist, the City will be provided guidance on the creation and maintenance of individual position descriptions and centralized "position history" files.
- 1.6 To insure that the salaries are consistent with local area wages, a carefully selected sample of local businesses and industries and comparable governmental jurisdictions will be surveyed to determine minimum prevailing rates of pay for jobs similar to those in Marion.
- 1.7 After the comparative salary analysis is completed, and with the input developed from the position classification plan, all classes of positions will be assigned to appropriate pay grades.
- 1.8 Finally, study recommendations will be presented for each department of the City, showing the proposed classification for each employee, the proposed pay grade and step, and the annual cost for implementing the study.

## 2. Review and Update of the City's Personnel Policies

- 2.1 The City's Personnel policies will be reviewed in total and updated as necessary to implement a modern program of personnel administration.

## 3. Presentation of the Pay and Classification Plan

Following the completion of the work components presented above, the League representative will present the findings and recommendations of the study to the Mayor and City Council. Ten (10) copies of the pay and classification document will be delivered to the City.

The Vote was as follows:

Councilman Cuthbertson	Yes
Councilman Little	Yes
Councilman Martin	Yes
Councilman Edwards	No
Councilman Owenby	No

Councilman Edwards advised that there are still serious problems in his neighbor. First it was the peeping tom and now someone is breaking into vehicles. Councilman Edwards feels that the Police Department is doing what they can, but that something is going to have to be done.

Councilman Little stated that the newly painted street traffic markings in the City looks good and that he appreciates the work being done by City Crews.

Councilman Owenby stated that he would like to see Council hold some meeting in various Communities.

A discussion followed.

It was decided to hold one City Council Meeting, every three months, in one of the following Communities:

Crossmill  
West Marion  
East Marion  
Clinchfield

April 23, 1996, at 8:30 A.M. was the date set for the Utility Committee to meet in reference to the proposed Water System Extension Policy Outside the City Limits.

The News Media was informed of this Meeting.

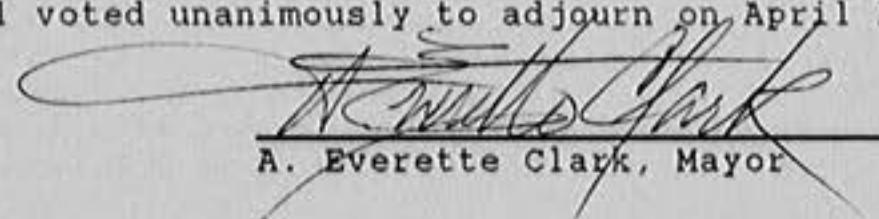
**EXECUTIVE SESSION:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to go into Executive Session.

A discussion was held regarding the City Manager's salary.

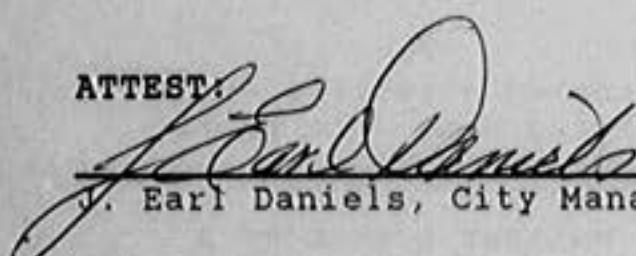
**REGULAR SESSION:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to go into Regular Session.

**PAY RAISE - CITY MANAGER:** Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, Council voted unanimously to raise the City Manager by \$600.00 per year.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adjourn on April 16, 1996 at 9:30 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 7, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Glen Sherlin, Public Works Director; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Roger Watson, News Reporter, The McDowell News; Tom Wilson, New Reporter, WDLF.

**GUESTS PRESENT:** Fred Nanney, Marion Fire Department; Kevin Owenby, Marion Fire Department; Terry Young, Fireman's Association; Juanita D. Walker 203 Morehead Road; Gladys Waller 748 Glethorpe Street, NE, D.C. 20011; Tillie Twitty 405 Hudgins Street, Marion, N.C. 28752; Chineeta McGuire, 110 Catawba Street, Marion, N.C. 28752; Mr. & Mrs. Oren Greene 401 Morehead Road, Marion, N.C. 28752; Mr. & Mrs. Jack Schmidt P.O. Box 1363, Marion, N.C. 28752; Mr. Samuel Kosten, BSA Troop 210; Carl Lerch P.O. Box 187 BSA troop 210; Johnny Suttles 233 Depot Street, Marion, North Carolina 28752; Evan Siler 708 Oakcrest Development Marion, N.C. 28752; Elizabeth Siler, 708 Oakcrest Development Marion, N.C. 29752; Richard Lerch, P.O. Box 187 Marion BSA Troop 210; Richard Lerch P.O. Box 187 Marion, N.C. 28752; Brenda Carson 211 Morehead Road, Marion, N.C. 28752; Linda Hunter 205 Morehead Road, Marion, N.C. 28752.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the minutes of the April 16, 1996 City Council Meeting.

**BOY SCOUT TROOP 210:** Mayor Clark recognized the Scout Master and members of troop 210 of the Methodist Church. The Scout Master and each member introduced themselves.

**PUBLIC ADDRESSES TO THE BOARD**

**REQUEST TO HOUSE PET POT BELLY PIG IN CITY:** The request was withdrawn and no action was required.

**ZONING MATTER - MS. VALERIE HALL:** The City Manager advised Council that he had spoken with Ms. Hall by telephone and asked that she present her request to the Marion Planning and Zoning Board.

**PUBLIC HEARING**

**ANNEXATION - MOREHEAD ROAD AREA:** The City Manager opened the public hearing on the proposed annexation of the Morehead Road Area. He presented the Annexation Feasibility Study prepared by the Planning Department. He advised that copies are available for review by any citizen. He went over the services which will be provided by the city and the estimated revenues and expenditures. Ms. Gladys Waller asked about the "Black Cemetery". The City Manager informed Ms. Waller that the cemetery must be privately owned. That the only cemetery owned and maintained by the city is the Oak Grove Cemetery. He advised that the city does

not hold title to and does not sell lots in the Black Cemetery. Ms. Tillie Twitty asked about connection charges to the water and sewer systems. The City Manager advised that Isothermal Planning and Development Commission was administering a Community Development Block Grant Project for McDowell County and that some houses had been rehabilitated under the program and that those residences had been connected to the sewer and water systems with the project paying the connection fees for the owners and/or occupants. He advised that no one was permitted to connect without paying the proper fees. She informed the Council that she had tried to get her property included in the project but was apparently unsuccessful. Mr. Jack Schmidt asked when sewer service would be available. The City Manager informed the group that the city is required by State Law to provide, immediately upon annexation, all services to the newly annexed property that is provided to existing city residents, except the city is allowed up to one year from the date of annexation to be under contract for water and/or sewer service. He advised that water service is already available to the area and that the estimated cost to provide city sewers to the area not presently served is \$109,100. He informed the persons attending that it is anticipated that the city will be under contract by June of 1997, which is within the requirements. Mr. Schmidt asked if the city will require the owner of the "junk yard" to remove all materials located within the street right-of-way. He was advised that the DOT presently has control of the roads.

The City Manager advised that the area is proposed to be annexed effective June 30, 1996. He asked if there were other questions. There being none, the public hearing was closed.

**REQUEST FOR FUNDS - McDOWELL CLEAN COUNTY SYSTEM:** The City Manager presented a letter from Ms. Donna Stevens requesting a donation of \$75.00 toward the printing of approximately 10,000 copies of a brochure relating to City, County and State litter laws. Some questions were raised about distribution. The City Manager stated that he was advised that the Highway Patrol, the Sheriff's Department and the Police Department would be assisting. Councilman Owenby suggested that the Scouts may wish to take this on as project.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve Ms. Stevens request in the amount of \$75.00.

**MCDOWELL COUNTY FIREMEN'S ASSOCIATION - REQUEST TO OBTAIN THE MARION FIRE DEPARTMENTS 1971 PUMPER:** Following a discussion, Councilman Edwards made a motion that the city donate the 1971 pumper fire truck to the McDowell County Firemen's Association, following the ISO inspection and delivery of the new M.A. Fire Truck, upon the condition that the truck be returned to the City when it is no longer needed by the Association. The Association would not be permitted to sell the truck. This motion was seconded by Councilman Martin and the vote was unanimous.

**VOLUNTEER McDOWELL - REQUEST - WAIVE \$75.00 FEES FOR USE OF THE COMMUNITY BUILDING:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to waive the \$75.00 fee for the use of the Community Building for Volunteer McDowell's Volunteer Awards Program.

**NC COOPERATIVE EXTENSION SERVICE - REQUEST TO USE THE BASEMENT OF THE COMMUNITY BUILDING:** Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, the City Council unanimously voted to allow the Cooperative Extension Service to use the basement of the Community Building, without charge, on July 15, 17, and 19 for a three day mini-camp for 15 at-risk youth from 7-10 years old.

**REQUEST TO DISCHARGE LECHATE - SEALAND CONTRACTORS -RECOMMENDATION FROM HMS:** The City Manager presented a letter from Sealand Contractors requesting permission to discharge Lechate to the Marion Sewer System. He also presented a letter from HMS regarding the problems associated with accepting such waste water. Upon acceptance the City would assume total responsibility for any environmental damage as a result of discharge from the Waste Treatment Plants. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted **NOT** to accept Lechate at any City owned waste water facility.

**WATER/SEWER LINE - EXTENSION POLICY:** Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council unanimously voted to table this matter.

**REQUEST FOR MASTER METER SERVICE - CONNECTION FEE:** The City Manager informed Council that he had received a request for a master water meter to serve a four unit apartment building in East Marion. He advised that the building is presently served by a private well and that the plumbing is within a concrete slab. He reviewed City policy on master meters. He advised Council that since the system development charge is included in the tap fee charging for one meter for four units would not be appropriate nor would charging for four meters when only one will be installed. He asked Council to set a tap fee for this particular service. He advised that the sewer charge is \$1,250 for the first unit and \$500 for each additional unit in the same building. It was suggested that the same percentage be used on the water connection fee. Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council unanimously voted to charge \$700 for the first unit and \$280 for each additional unit within the same building.

**SOUTH MAIN STREET - PARKING HAZARD - RECOMMENDATION FROM CHIEF TOM PRUETT:** The City Manager presented a request from Chief Pruett that Council consider

eliminating two parking spaces located on the west side of South Main Street in the intersection of South Main Street and State Street. Following a discussion it was decided to eliminate one parking space. Upon a motion by Councilman Martin, seconded by Councilman Little, the City Council unanimously voted to adopt the following Ordinance:

CITY OF MARION  
TRAFFIC SCHEDULE  
NO PARKING ZONE  
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:

<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>		
MAIN, SOUTH	18-239	101	PARKING	PROHIBITED	WEST SIDE, BEGIN AT A POINT 98.5 FT. SOUTH OF THE SW CORNER OF THE INTERSECTION OF SOUTH MAIN AND RAILROAD STREETS AND EXTENDS 52 FT. IN A SOUTHERLY DIRECTION.

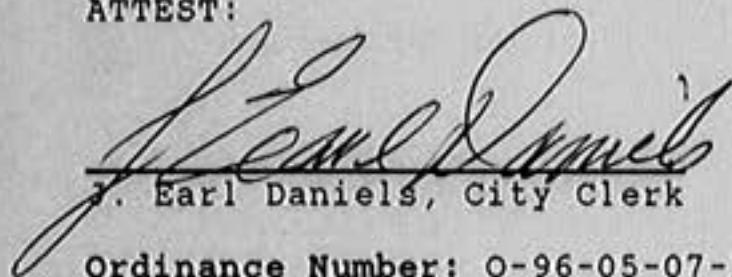
Section 2. Any person who shall violate or fail to comply with this ordinance shall be deemed to be guilty of an offense and shall be punished by a fine not to exceed fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days.

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

ADOPTED this the 7th day of May, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Clerk

Ordinance Number: O-96-05-07-1

**MOTOR GRADER - ESTIMATED REPAIR COST - RECOMMENDATION TO SALE AT AUCTION FROM DIRECTOR OF PUBLIC WORKS DIRECTOR GLEN SHERLIN:** Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council unanimously voted to declare the motor grader surplus to the needs of the City and authorized placing it for sale at the annual auction.

**REQUEST - TO SALE WOOD CHIPS:** The City Manager recommended the sale of wood chips to the general public for \$5.00 per front bucket load, approximately 2 yards. This material is brush chipped by the city and includes all types of wood. Upon a motion by Councilman Little, seconded by Council\man Cuthbertson, the City Council unanimously voted to approve the sale of wood chips for \$5.00 per front bucket load as requested by the Manager.

**SHIELD ENVIRONMENTAL ASSOCIATES, INC. - REQUEST TO DISCHARGE TREATED GROUNDWATER IN THE SANITARY SEWER SYSTEM:** The City Manager presented a letter from Shield Environmental Associates requesting permission to discharge treated groundwater into the city sewer system from Kehler's City Food located on Main Street. The firm is planning to remove contaminated groundwater through recovery wells and the reduce the contaminant level through the use of a ground water treatment system. This request is similar to the discharge of Lechate into the system. The City would have total responsibility upon acceptance. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted **NOT** to accept this in the city sewer system.

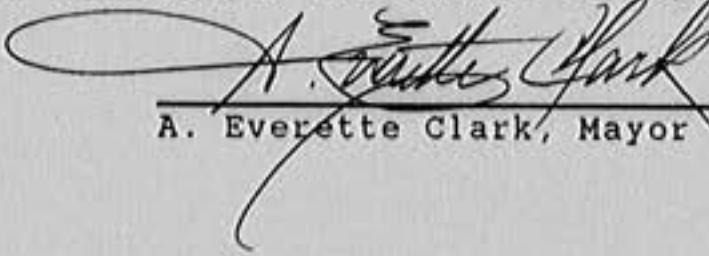
**SALARY ADJUSTMENTS:** The City Manager informed Council that he understood completely action taken by Council regarding salary adjustments for the fiscal year 1996-97. He advised Council that he had been presented with a problem from Public Works Director Glen Sherlin regarding the need to adjust some lower employees salaries to bring them in line with fellow employees. The City Manager requested a total of \$1.00 per hour for a total of \$2,080 to make adjustments to the necessary salaries. Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, the City Council unanimously voted to approve the Manager's request.

**COMMUNITY MEETINGS:** The City Manager explained that he was having a difficult time trying to schedule meetings out in the Community because of Public Hearings on Annexation, Zoning, and the City Budgets. Council agreed to scheduling the Community Meetings beginning in August.

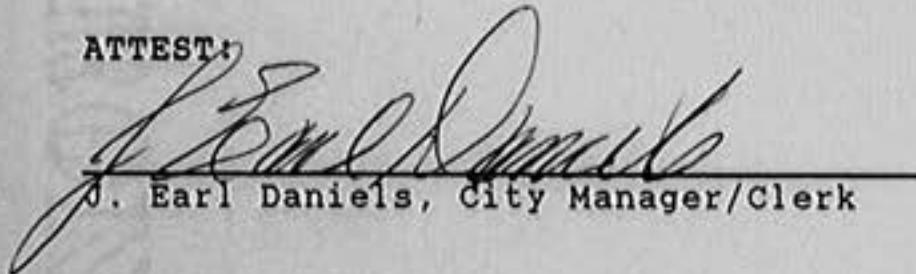
**JULY MEETINGS:** The City Council agreed to meet only one time in July 1996. That meeting will be held on the 16th of July. The news media was advised of the time and date.

**LETTERS TO ROTARY AND THE PRISON DEPARTMENT:** Councilman Cuthbertson suggested that letters be sent to the Rotary Club and prison officials thanking each for improvements made on the walkways on the grounds of the Community Building.

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to adjourn on May 7, 1996 at 9:35 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 21, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark; Councilmen Lloyd Cuthbertson, Mike Edwards, Steve Little, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief, Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF Radio; Van McKinny, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Stephanie Shipe, (P.O. Box 1545) Morehead Road, Marion, N.C. 28752; Mr. & Mrs. Tach Schmidt (P.O. Box 1363) Morehead Road, Marion, N.C. 28752; Lucille Lewis 208 Morehead Road, Marion, N.C. 28752; Rose Chambers, (No address listed) Brenda Carson 211 Morehead Road Marion, N.C. 28752 Keith Bradley 211 Cresant Drive Marion, N.C. 28752; Howard Brown and Scott Spratt, MPD; Craig Orange, 8 Forest Road, Marion, N.C. 28752.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to approve the minutes of the May 7, 1996 City Council Meeting.

**INTRODUCTION OF STEVE WALDON - INTERN:** The City Manager introduced Mr. Steve Waldon. Mr. Waldon is attending Appalachian State University and will be serving as an Intern with the City of Marion until August 16, 1996. He will be working forty (40) hours per week and undertake all assignments given just like a regular employee. Mr. Waldon is from Forest City and is the fifth Intern from Appalachian State serving the City. The City of Marion pays Appalachian State University a total of \$3,500.00 for the service of the Intern. The City has no other responsibility except to supervise his work.

**INTRODUCTION OF NEW POLICE OFFICERS:** Chief Pruett introduced Mr. Howard Brown. Mr. Brown is one of several new Officers at the Marion Police Department.

**PUBLIC HEARINGS:**

**RE-ZONING REQUEST - MR. PIERCE BRADLEY:** The Public Hearing was opened. Mr. Keith Bradley was present for this Public Hearing. requesting property located at the intersection of North Main Street and Machine Shop Road (1701.06-49-3120 and 1701.06-48-1886) be rezoned from R-2 General Residential to C-2 General Business.

A discussion followed.

The Public Hearing was closed.

Upon a motion by Councilman Owenby, seconded by Councilman Little, the City Council unanimously voted to approve the recommendation of the City of Marion Planning Board as follows:

Property owned by Mr. Pierce Bradley located at the intersection of North Main Street and Machine Shop Road (1701.06-49-3120 and 1701.06-48-1886) be rezoned from R-2 General Residential District to C-2 General Business District as requested.

ZONING - MOREHEAD ROAD AREA: The Public Hearing was opened. There was several persons present for this Public Hearing with questions concerning the junk yard in the area.

The City Manager advised that if City Council adopts the R-2 General Residential District for this area, Mr. Frady's automobile wrecking, junk and salvage yard could continue in operation as a non-conforming use. The non-conforming use of the land would be restricted to the area occupied by the junk and salvage yard as of the effective date of annexation. The non-conforming use of existing buildings could not be enlarged to either additional land or additional buildings.

Any buildings located on the property used in connection with Mr. Frady's business could not be structurally altered except in conformity with the provisions of the Marion Zoning Ordinance. Normal maintenance and repairs required for structural safety would be allowed.

If Mr. Frady discontinued operation of the junk and salvage yard for more than twelve (12) months, the non-conforming use could not be re-established. If the business was discontinued for a period of less than (12) months, re-establishment of the business would be subject to the written approval of the Board of Adjustment and any conditions that the Board might require in order to protect the health, safety and welfare of the area.

If the non-conforming buildings or use was damaged by fire, flood, wind, or other act of God or man, it could be reconstructed and used as before, providing it could be rebuilt within twelve (12) months of such damage and the damage did not exceed sixty (60) percent of the faire sale price immediately prior to the damage. Repair or reconstruction would have to be in conformity with provisions of the Marion Zoning Ordinance such as setback requirements, off-street parking, etc.

Mr. Frady could transfer ownership of the business to his son or sell the business to another individual, in either case the operation of an automobile wrecking, junk and salvage yard could continue as a non-conforming use. The type of business in operation as of the effective date of annexation can not change to any use except in compliance with the district in which it is located.

A discussion followed.

The Public Hearing was closed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the recommendation of the Planning Board as follows:

All property located in the Morehead Road Annexation area be zoned R-2 General Residential District.

**ITEMS FOR DISCUSSION:**

ANNEXATION ORDINANCE - MOREHEAD ROAD AREA: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance:

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

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

WHEREAS, the City of Marion has taken into full consideration the statements presented at the public hearing held on the 7th day of May, 1996, on the question of this annexation; and

WHEREAS, the City of Marion has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion;

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

Section 1. That from and after the 30th day of June, 19996, the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall on the 30th day of June, 1996, be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING on a one-half inch iron pipe found, said iron pipe found being located a bearing of North 52 degrees 26 minutes 37 seconds East for a distance of 4,252.28 feet from North Carolina Geodetic Station "Clara" and being located near the Southwest corner of Deed Book 370, Page 277. Also being located in the Marion City Limit Line as shown on the McDowell County Tax Map and being more particularly described as follows and runs thence.

Thence South 14 degrees 46 minutes 04 seconds East for a distance of 20.42 feet to the Northern edge of Pine Grove Street.

Thence with the Northern edge of said street the following courses and distances:

Thence North 75 degrees 13 minutes 56 seconds East for a distance of 55.72 feet to a point.

Thence South 88 degrees 44 minutes 52 seconds East for a distance of 110.68 feet to a point.

Thence South 84 degrees 32 minutes 18 seconds East for a distance of 69.26 feet to a point.

Thence South 83 degrees 09 minutes 05 seconds East for a distance of 95.05 feet to a point.

Thence South 82 degrees 12 minutes 34 seconds East for a distance of 88.49 feet to a point the Northwest corner of Baldwin Avenue and Morehead Road.

Thence leaving the North edge of the Morehead Road South 64 degrees 33 minutes 50 seconds for a distance of 17.11 feet to a PK nail found in the centerline intersection of Baldwin Avenue and Morehead Road, sail nail being located a bearing of North 77 degrees 23 minutes 24 seconds East for a distance of 175.88 feet from a fire hydrant. Thence following the current Marion City Limits for a distance of approximately 10, 472 feet, first in a generally Western direction, then in a generally Southern direction, then in a generally northern direction, then in a generally eastern direction to the point of BEGINNING.

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

1. The area is adjacent and contiguous, as defined by G.S. 160A-41 (1) as of the 19th day of March, 1996, the date upon which this annexation proceeding was begun.

2. The aggregate external boundary line of the area to be annexed is 10,772.00 feet, of which 10,472.00 feet or 97.5% coincides with the City boundary. Therefore, at least one eighth of said external boundary coincides with the City boundary.

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

4. The area to be annexed is developed for urban purposes in that 63.8% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes, and 100% of the total of residential and vacant acreage consists of lots and tracts five acres or less in size.

Section 3. That it is the purpose and intent of the City of Marion, to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on the 7th day of May, 1996, and filed in the office of the Clerk for public inspection.

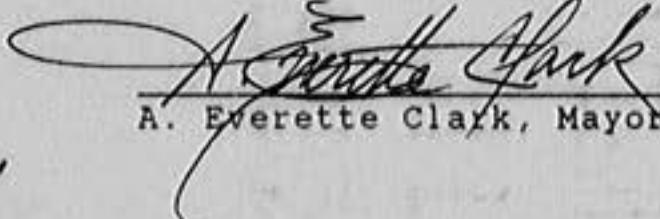
Section 4. That the City Council does hereby specifically find and declare that, on the effective date of annexation prescribed in Section 1. hereof, the City of Marion will have water and sewer available to the annexation area, and that sufficient funds have been appropriated for water and sewer service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

Section 5. That from and after the effective date of this annexation, the territory annexed and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion, and shall be entitled to the same privileges and benefits as other parts of the City.

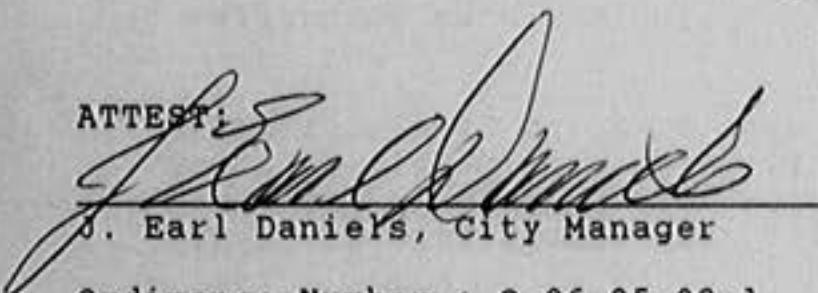
Section 6. That the newly annexed territory described hereinabove shall be subject to City taxes according to G.S. 160A-58.10.

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

ADOPTED This the 21st day of may, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

Ordinance Number : 0-96-05-02-1

**ORDINANCE - COMMERCIAL GARBAGE/TRASH/RECYCLING FEES:** Upon a motion by Councilman Little seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

**ORDINANCE  
COMMERCIAL GARBAGE/TRASH/RECYCLING COLLECTION FEES**

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

service is limited to the number and size of cans and the number of pick-ups.

Section 1. That the following Garbage/Trash/Recycling Collection fees shall apply to all Commercial Establishments within the Marion City Limits.

**PLAN "A" - COMMERCIAL DUMPSTER SERVICE** - The City will charge one dollar and fifty-five cents (\$1.55) per cubic yard for all commercial dumpster pick-ups. Said charge will be based on the size of the dumpster. In addition, the City will make a service charge of ten dollars (\$10.00) per dumpster, for all over two (2) pick-ups per week.

**PLAN "B" COMMERCIAL CAN SERVICE - \$6.72 PER MONTH - MINIMUM CHARGE** - Three (3) thirty-five (35) gallon cans to be picked-up two (2) times per week. (This service is limited to the number and size of cans and the number of pick-ups. The City will make a service charge of six dollars and seventy-two cents (\$6.72 per month. This is the minimum charge for commercial service.)

**PLAN "C" - COMMERCIAL RECYCLING SERVICE** - Each Commercial Establishment participating will be required to purchase one key at a one time cost of three (\$3) dollars. Two (\$2) will be refunded if the establishment closes and returns the key. Keys may not be duplicated or shared with other establishments and must be returned to the City if an establishment closes. In addition, Special Blue Bags must be used for recycling aluminum cans and junk mail. The bags are available at City Hall at a cost of two (\$2) dollars for twenty (20) bags.

ESTABLISHMENTS NOT USING PLAN "A" OR PLAN "B" MUST PAY SIX DOLLARS AND SEVENTY-TWO CENTS (6.72) PER MONTH IN ORDER TO PURCHASE A KEY AND PLACE ITEMS IN THE SPECIAL RECYCLING DUMPSTERS.

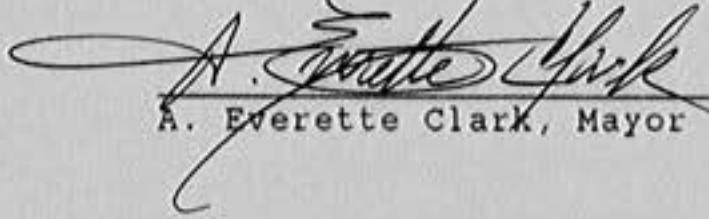
ANY CHANGE IN SERVICE REQUIRES A NEW SIGNED CONTRACT.

Section 2. All garbage/trash/recycling service charges will be billed on the Monthly City Water Bill of the owner or occupant receiving service. Any establishment not receiving occupant receiving service. Any establishment not receiving a Monthly City Water Bill may be billed separately.

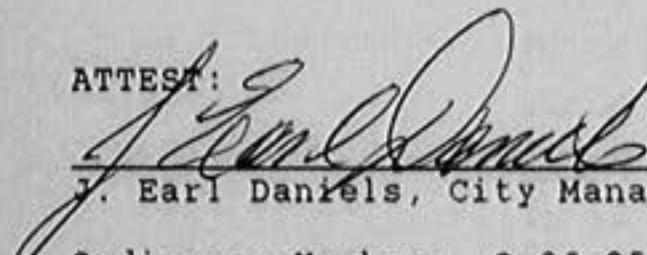
Section 3. These new charges will be billed with the August 1996 Water Bill for services provided in July 1996.

Section 4. Existing charges established by City Council on August 2, 1994 will remain in effect until June 30, 1996, at which time the new rates will take effect.

ADOPTED this the 21st day of May , 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-96-05-21-2

BUSINESS LICENSE - REQUEST - ORDINANCE BE RESCINDED: The City Manager informed Council that he had considered requesting that the Business License Ordinance be rescinded; however, after reviewing the needed expenditures in the proposed budget he could not see how to cut approximately \$17,000 out of the budget. He did state that the way businesses are charged under the Ordinance is not really fair in his opinion; however, the Ordinance must comply with rates authorized by State Law. He withdrew the request.

AUDIT - CONTRACT - JOHNSON, PRICE AND SPRINKLE: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the contract to audit accounts from Johnson, Price and Sprinkle in the amount of \$11,650.00 for fiscal year beginning July 1, 1995 and ending June 30, 1996.

A copy of the contract can be found on file in the Clerk's Office located at City Hall.

\*\*NOTE: Councilman Little asked permission from Mayor A. Everette Clark to be excused from this meeting at 8:50 P.M.

EXPERIMENTAL PROJECT - POLICE BICYCLE PATROL: The Chief of Police presented Council with a memo on behalf of several officers expressing interest in establishing a bicycle patrol in Marion.

This proposal would simply involve selecting a couple of officers initially who have expressed an interest in such a program, equip them with one uniform suitable for use on a bicycle, and get them some safety training. A bicycle uniform would basically consist of a helmet, a pair of bicycle shorts, and a knit shirt with an embroidered badge. Standard duty leather and equipment would also be utilized. They are also proposing a very minimal expenditure of funds and nothing outside our normal budgetary constraints.

Chief Pruett advised that various law enforcement agencies throughout the nation have implemented bicycle patrols successfully. He feels that the bicycle patrol would not be utilized around the clock.

A discussion followed.

Councilman Edwards stated that maybe a Bicycle Patrol could aid in catching the person or persons who have been causing problems in his neighborhood.

Councilman Owenby stated that he was against this Patrol , due to safety reasons.

A discussion followed.

Upon a motion by Council Cuthbertson, seconded by Councilman Edwards, Council approved this request to form a Bicycle Patrol.

The vote was as follows:

Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Martin	Yes
Councilman Owenby	No

COUNCILMAN MARTIN advised that he had been contacted by a Citizen stating that they were disturbed about the morale of the Marion Police Department and its large turn over.

A discussion followed.

Chief Pruett was instructed to present Council with a written report in reference to this matter.

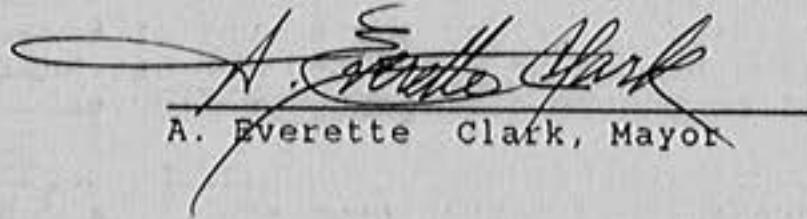
COUNCILMAN EDWARDS advised that the stop sign behind East Junior High has been taken down and that this is causing problems in the Foxfire Development.

COUNCILMAN CUTHBERTSON advised that several persons have been seen walking

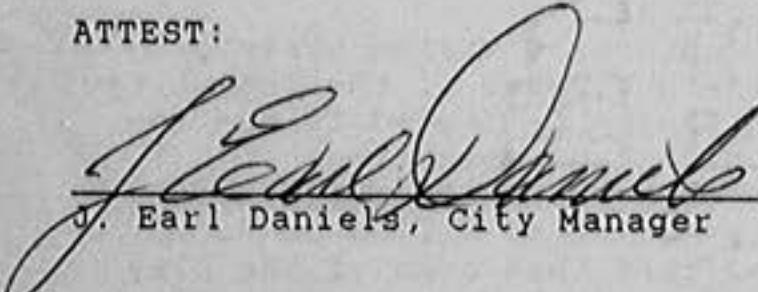
A discussion followed.

The City Manager advised that this matter would be checked into.

ADJOURNMENT DATE AND TIME: Upon a motion by Councilman Cuthbertson, seconded by Councilman , those members of Council present voted unanimously to adjourn on May 21, 1996 at 9:35 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

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, June 4, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Steve Little, Councilmen Lloyd Cuthbertson, Mike Edwards, Billy Martin and Cecil Owenby.

BOARD MEMBERS ABSENT: Mayor A. Everette Clark.

OTHERS PRESENT: J. Earl Daniels, City Manager; Tom Pruett, Police Chief; Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF Radio; Van McKinney, News Reporter, WBRM Radio; and Freddie Killough, DBA.

GUESTS PRESENT: Ms. Linda Mayes, 228 Park Avenue and Garland B. Franklin, 234 Spring Street.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby those members of Council present voted to approve the minutes of the May 21, 1996 City Council Meeting.

COMPLAINT - MS. LINDA MAYES: Ms. Mayes informed Council that she lived at 228 Park Avenue and that approximately 50 Mexicans had moved in the house next door. One female, one infant and the rest all males. She informed Council that they seemed to sleep in shifts. She advised that she is extremely concerned for the safety of her children. She told the board that someone had poisoned her dog. She advised that she did not understand how the County, the health department, social services or the City could allow that many people to live in one house. She advised that she had talked with the Chief of Police and the owner of the house about the problem and understood that the owner was going to have them evicted. The City Manager asked the Chief of Police to contact the Attorney General's Office regarding any action that could legally be taken in the matter. He advised that he would contact the North Carolina League of Municipalities or the Institute of Government about the matter. Ms. Mayes asked Council to have someone do something about problem. (Note: Councilman Edwards arrived at 7:10 P.M. during the discussion of this matter.

TAX REFUNDS: The City Manager submitted a Memorandum from Tax Collector Claudia Hill requesting a 1995 Tax Refund for Mr. David Spencer and a 1995 Tax Refund for Nationwide Life Insurance Company. Mr. Spencer was billed a valuation of \$79,770 on his property located at 136 North Madison Street (PIN number 170107689467). He paid the 1995 tax bill in the amount of \$457.38 on April 12, 1996. On May 10, 1996 he presented a document from the McDowell County Tax Department stating that his property had been overbilled a valuation of \$22,840. That value at \$.55 per one hundred dollars would be \$125.62. That is the amount requested to be refunded.

Nationwide Life Insurance Company was billed a valuation of \$4,719,080 for the Marion City Square Shopping Center (PIN number 170106495592). Ms. Hill was notified on May 13, 1996 that the value was billed incorrectly for 1995. The correct value was \$4,581,050, a difference of \$138,030. That value at \$.55 per one hundred dollars would be \$759.17. That is the amount requested to be refunded.

Councilman Owenby raised a question concerning the figures on the document from the County (Assessment \$5,413,670) being different than the amount originally billed by the City (\$4,719,080) for the Marion City Square Shopping Center. The City Manager advised that he was unable to explain the difference. Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to refund the amount of \$125.62 to Mr. David Spencer as requested but tabled the refund requested for Nationwide Life Insurance Company pending an explanation of the difference in figures.

**WALK AMERICA - REQUEST FOR REFUND - COMMUNITY BUILDING RENT:**

The City Manager presented a letter from Ms. Linda Johnson, Division Director for Walk America requesting a refund of the \$50.00 paid for use of the Community Building on April 27, 1996. The letter stated that they only needed to use the rest rooms in the building and that another group was on the main floor preparing for their meeting. She also advised that they were told they would have access to electricity but someone from the City had to be called in to provide access to the service. In addition, she reported that some of the playground equipment was being painted and the children did not have access to all the equipment. The City Manager advised Council that he had spoken with Ms. Suttles, the employee charged with scheduling the building, and was advised that she was informed they wanted to use the building and knew nothing about the City providing any access to electricity. The City Manager advised that no one is charged for use of the playgrounds. The City Manager informed the Council that he was disappointed in the wording of the letter. He advised that the rents paid for use of the Community Building do not cover near the costs of maintenance, utilities, and required improvements to the Building. He told Council that the City is receiving more and more requests to use the facilities without charge for worthwhile causes. He said there are many worthwhile causes but that the city taxpayer is having to pick up the costs not covered by the rents for the Building. He suggested that the City require everyone that uses the Community Building to pay the necessary rents, including even the City and there be no exceptions. That way everyone is treated fairly and no one would be criticized for trying to decide which cause is worthwhile and can use the building free and which cause is not.

Councilman Cuthbertson advised that he was at the Community Building on April 27, and he seemed to remember that persons working with Walk America were in the building working registrations and selling T shirts.

Upon a motion by Councilman Edwards, seconded by Councilman Owenby, those members of Council present voted to refund the \$50.00 paid by Walk America, as requested, and to amend the rules of the Community Building to provide that, effective immediately, no persons, groups, or organizations will be permitted to use the Marion Community Building without paying the rent fees established by Council. The Council did agree that the S.T.A.Y. Program, presently using the basement of the Community Building without charge, may continue without charge to the end of the agreed time period.

**FIRE DEPARTMENT - TRANSFER PAGERS TO OLD FORT FIRE DEPARTMENT:** Fire Chief Tom Milligan submitted a request to transfer to the Old Fort Fire Department, 25 obsolete Motorola Minitor Pagers. The pagers are of no value to the City Fire Department and repair parts are no longer manufactured by Motorola. The Old Fort Fire Department has several new firemen who have no communications equipment and they wish to use parts from these pagers to make several that will work. Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to authorize the donation of the pagers as requested.

**CEMETERY - REQUEST FOR FUNDS FOR MONUMENT RESTORATION - WARREN HOBBS:** The City Manager presented a request from Warren Hobbs for an appropriation of \$3,500 for restoring the monuments at the main entrance to the Cemetery. The estimated costs does not include electrical. Councilman Owenby suggested that a number of citizens may wish to make a donation to do this work. Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to table the matter.

**EMPLOYEE LIFE/MEDICAL/DENTAL INSURANCE PLAN:** The City Manager reviewed with Council the Employees Life/Medical/Dental Insurance Plans. Following a detailed explanation the City Manager recommended that the City continue to carry life and medical insurance with Trustmark, but increase the deductible to \$750.00. He also recommended that the dental plan be carried with MIT but that the plan be modified to provide better coverage. The actual premium increase over last years amount would be approximately 10%. Some concern was expressed by Council concerning the deductible being changed from \$300 to \$750. The City Manager explained that in 1985 the City had a similar problem with increasing premiums, changed to a higher deductible and adopted a Resolution whereby the City would pay a part of the deductible. Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to accept the City Managers' recommendation to continue to carry life and medical insurance with Trustmark with an increased deductible of \$750, and to improve the dental plan carried with MIT.

**PLANNING AND ZONING BOARD - APPOINT 2 ALTERNATE MEMBERS:**

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to appoint Mr. Dean Trakas as an alternate member of the Planning and Zoning Board effective immediately, with term to

expire on January 31, 1999 and Ms. Stephanie Shipe as an alternate member of the Board, effective July 1, 1996, with term to expire on January 31, 2000.

**RAILROAD STREET PARKING LOT - TREE PROBLEM:** The City Manager informed Council that the City owned a parking lot which fronts of Railroad Street and is located just east of Marion Tire. He advised that the City had planted 10 to 15 pine trees at the rear of the lot to shelter the residences in that area from the dust and noise of the railroad and street. The trees have since grown to such a height that some of the residents of the area are concerned that a heavy snowfall or strong winds might cause limbs to break off or one or more trees to fall on their residences. The trees need to be replaced with some type low growing ever-green such as hemlock to form a hedge. Councilman Owenby said that he would like to go by and look at the trees. Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, the Council voted to table the matter so members could go by and look at the problem.

**1996-97 CITY BUDGET - PROPOSED:** The City Manager advised that he had placed this item on the agenda since copies of the Budget were submitted to Council members prior to June 1, 1996. Mayor Pro Tem Little informed those present that a Public Notice had appeared in the paper calling for a Public Hearing on the proposed Budget to be held on the 18th of June and not only invited but encouraged citizens to attend. Several compliments were made regarding the Budget books presented to Council. The Manager informed Council that Administrative Assistant Robert Parker did a great job in printing and putting the budget books together and that he will advise Mr. Parker that Council is pleased with his work.

**SPECIAL STREET TRASH PICK-UPS:** The City Manager informed Council that from time to time the City received requests for Special Pick-ups. This is primarily for picking up ranges, washers, dryers or other items to large or bulky to pick up with the regular street trash. The City makes a charge for such pick-ups because it generally requires special handling or additional employees or equipment. Citizens are required to bring such items to the curb of the street for pick up. This insures that employees do not pick up items in a yard that citizens do not wish to discard. In some cases the persons calling in are either physically unable or elderly and cannot bring such items to the curb of the street. The City Manager informed Council that he had given the Public Works Director, the Street Superintendent and the Supervisor of Sanitation the authority to pick-up such items by city equipment using the driveway of the citizen requesting service. Employees must remain on or near the driveway to make the pick-up and can not go on a porch or into a residence. The Manager informed Council that, in his opinion, it is unreasonable for an elderly person or handicapped person to have to pay someone to get an item to the curb and then pay the city to pick up the item. Council agreed with the action taken by the Manager.

**COMMUNITY DEVELOPMENT BLOCK GRANT FOR COMMUNITY REVITALIZATION:** Councilman Martin asked about the article in the paper concerning the City receiving a CDBG Grant. The Manager advised that a copy of a letter from Governor Jim Hunt was included with the agenda materials advising that the City has been awarded a \$487,025 preliminary Community Development Block Grant for Community Revitalization. The letter did not give any details about the project. The Manager advised that the application had been submitted by Isothermal Planning and Development Commission on behalf of the City and that IPDC would be administering the project. The project involves the revitalization of approximately 22 low income owner-occupied dwellings scattered throughout the City.

**NORTH CAROLINA CITY/COUNTY MANAGERS MEETING:** The City Manager informed Council that he would be attending a meeting of the N.C. City County Managers Association in Kill Devil Hills on June 13 through June 15. He advised that he would be returning to work on Tuesday June 18, 1996.

**FUNERAL LEAVE:** Councilman Owenby reminded Council that he had brought up the need for funeral leave for employees during the Annual Planning Session. He asked that the matter be placed on the Agenda of a future meeting. He expressed his opinion that employees should be given three days leave, with pay, for death of an immediate family member without being charged with sick leave or vacation time. The Manager also suggested that consideration should also be given the holiday schedule observed by the City and the County. The schedules are different and that is confusing to the general public. The Manager advised that he would place this item on the agenda.

**TRAFFIC LIGHT - ASHWORTH ROAD AND SUGAR HILL ROAD:** Councilman Owenby informed Council that he believes an additional lane is needed near the intersection of Ashworth Road and Sugar Hill Road since traffic going west on Sugar Hill Road is blocked when a vehicle is waiting to make a left turn from Sugar Hill Road. It was pointed out by Chief Pruett that the road is scheduled to be widened in the

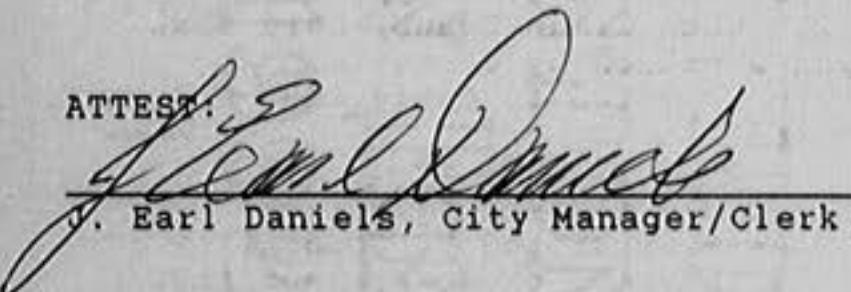
DOT-TIP program. It was agreed that it may be a long time before the actual work takes place and that something needs be done sooner. The Manager advised that he would contact DOT concerning the matter.

**GRASS MOWING - AIRPORT ROAD:** Council Cuthbertson asked if the City was now mowing the rights-of-way on State Roads. The City Manager advised that the City has a contract to mow the rights-of-way on certain state maintained roads. Council Cuthbertson advised that the City, if mowing the right-of-way, stopped short of the City Limits on Airport Road (Fleming Avenue).

**ADJOURNMENT DATE AND TIME:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted unanimously to adjourn on June 4, 1996 at 8:34 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, June 18, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** Mayor A. Everette Clark, Councilmen Lloyd Cuthbertson, Mike Edwards, Billy Martin and Cecil Owenby.

**BOARD MEMBERS ABSENT:** Mayor Pro Tem Steve Little was absent from this meeting due to being on Vacation.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Milligan, Fire Chief; Freddie Killough, DBA; Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF.

**GUESTS PRESENT:** Eric Robinson, Public Service Company; Garland Franklin, 234 Spring Street, Marion N.C. 28752; Barbara Conley, 106 Woodlawn Street, Marion, N.C. 28752; Bill DeBruhl, PSNC, Asheville, N.C.; Bob Garrett, PSNC, Gastonia, N.C.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to approve the minutes of the June 4, 1996 City Council Meeting.

**NATURAL GAS - UPDATE:** Mr. Bill DeBruhl, Mr. Eric Robinson, and Mr. Bob Garrett, representing PSNC appeared before Council to provide an update on the progress of gas line installations. Mr. Robinson acted as spokesman. He informed Council that a gas line would be installed in a southern direction down the Five Lane (North Main Street) to Logan Street, down Logan Street to Fort Street, to Garden Street, to Rutherfordton Road, to the Industrial Park on U.S. 221 just north of I-40. A line would also be installed from the intersection of Garden and East Court Streets along East Court Street in an easterly direction to the Railroad Overpass. Another gas line would be installed from the intersection of Logan and Fort Streets, in a southerly direction along Logan Street to West Court Street, then west on West Court Street to Burgin Street then south on Burgin Street to Henderson Street. Another gas line would be installed from the intersection of Rutherfordton Road and Baldwin Avenue, north along Baldwin Avenue to Fourth Street.

Mr. Robinson advised that there would be a temporary office located on Rutherfordton Road. He stated that there would not be a permanent office in Marion but that Marion would be served from their office in Forest City. The City Manager advised that the City was preparing Encroachment Agreements for Public Service Company to execute regarding installation of the gas lines. Mayor Clark advised that several citizens had asked him how they would go about getting service from the gas company. Mr. Robinson informed the Council that they were using a formula whereby the company could extend a pipe line up to one hundred feet to pick up a new customer. In addition they could run up to one hundred feet of pipe as a service line. There would be no charge for this service to the customer at this time. There may be a charge for greater

distances. Mr. Robinson asked if there were other questions. There being none he passed out business cards and asked that he be called for any further information.

Councilman Edwards arrived for this meeting during the above discussion at 7:15 P.M.

**CITIZEN COMPLAINT:** Ms. Barbara Conley appeared before Council regarding a city alley way and private property that is grown over in weeds and kudzu next to her residence located on Woodlawn Street. Ms. Conley showed the City Council a video of the area. She asked that the area be mowed and cleaned up. Council advised that city forces would mow the alley way. Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson the City Manager was directed to send a letter to the private property owner directing that the private lot be mowed no later than July 1, 1996 or that the City will contract the mowing and bill the owner. If not paid, the city would collect the bill in the same manor as unpaid taxes.

**CEMETERY - MONUMENT RESTORATION:** Mr. Warren Hobbs appeared before Council regarding the restoration of the Monuments at the entrance of the Oak Grove Cemetery. Mr. Hobbs advised that the monuments are in bad need of attention. Mr. Hobbs informed Council that Mr. Mark-Ellis Bennett of 24 Griffing Boulevard in Asheville would pressure wash the stone and brick work, repair the spauling brick, repoint the deteriorated mortar and repair and paint the lamps atop the monuments for \$3,500. This figure does not include electrical wiring. Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted unanimously to approve the project as requested by Mr. Hobbs.

**HABITAT - CLINCHFIELD AREA - REQUEST FOR CITY TO MAINTAIN ROAD:** The City Manager presented a letter from Mr. John McGrath, President, McDowell County Habitat for Humanity, regarding construction of a service alley at the rear of the Habitat houses under construction on Church Street in the Clinchfield area. The letter stated that rather than have five driveways emptying onto Virginia Road, it would be much safer to have an ally at the rear of the residences. Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted unanimously to accept for maintenance, a twenty foot wide drive from Church Street to Short Street, contingent upon locating the ally so as not to divide lots, and further contingent to the ally being graveled and paved for its full width, in accordance with City specifications and deeded to the City.

**TAX REFUND - NATIONWIDE INSURANCE:** The City Manager presented a report from Tax Collector Claudia Hill advising that the 1995 Real Property Value assigned the Marion City Square Shopping Center, PIN number 170106495592, was \$5,413,670. This value was appealed and a new value was established by the County in the amount of \$4,581,050. When the information for the 1995 taxes was received from the County Tax Department, the value received for the Marion City Square Shopping Center was \$4,719,080. This was the value billed by the City for taxes. The taxes were paid in full August 28, 1995. Based on the corrected value of \$4,581,050 Nationwide Life Insurance Company is entitled to a refund of \$759.17. Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted unanimously to refund \$759.17 to Nationwide Life Insurance Company as requested by the Tax Collector.

**1995-96 TAX ADJUSTMENTS:** The City Manager presented a report from Tax Collector Claudia Hill listing tax adjustments for the 1995-96 fiscal year. For the years 1990 through 1995 the total for Real Property, Personal Property, Municipal Tax, Late Listing and Interest is \$12,351.40. A breakdown of the tax payers, reasons for adjustments, amounts and other information presented may be found in the safe under document number 668. Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, those members of Council present voted to approve the adjustments as presented.

**RAILROAD STREET PARKING LOT - TREE PROBLEM:** Several Council members advised that they had driven by the parking lot to look at the problem. It was agreed that the trees need to be removed and replaced with hemlock or some other type evergreen hedge. The City Manager was directed to have the trees removed.

**RESOLUTION - PROPOSED AMENDMENT TO PERSONNEL RESOLUTION:** The City Manager informed Council that this proposed amendment to the Personnel Resolution included some word changes, some policies already approved by Council, a new holiday schedule to coincide with the County's holiday schedule, and Funeral Leave. He advised that it is confusing to citizens when the County offices are closed and City offices are open and establishing the same holiday schedule would eliminate that problem. He explained that the County gives Labor Day, Veteran's Day and three days for Christmas. One of the days for Christmas holidays is in lieu of Martin Luther King Day. Councilman Martin said that he was surprised that the County did not observe Martin Luther King Day and suggested that it be added to the City Holiday schedule. Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the following Resolution:

## CITY OF MARION, NORTH CAROLINA

PERSONNEL RESOLUTION  
AMENDMENT

BE IT RESOLVED by the City Council of the City of Marion, North Carolina that the Personnel Resolution as adopted on February 22, 1994 is hereby amended as follows:

Section 1. That the word "affliction" in the last sentence of the first paragraph in ARTICLE III, Section 1, be deleted and the word "affiliation" be inserted in lieu thereof.

Section 2. That the word "filling" in the second sentence of ARTICLE III, Section 3, be deleted and the word "fill" be inserted in lieu thereof.

Section 3. That Section 10, of ARTICLE VI, be deleted in its entirety.

Section 4. That a new Section 10, of ARTICLE VI, be added, which reads as follows:

## Section 10. - FUNERAL LEAVE

All employees will be given three work days off, with pay, as Funeral Leave for a death in the immediate family. Immediate Family shall be defined, for this section, as spouse, spouse's parents, grand-parents, parents, children, grand-children and siblings. Legally adopted shall be treated the same as natural.

Section 5. That a new Section 11, of ARTICLE VI, be added, which reads as follows:

## Section 11. - Holidays

Employees still on probation will be given time off, without pay, for holidays.

All regular employees will receive the following holidays with pay:

New Year's Day  
Martin Luther King Day  
Good Friday  
Memorial Day  
July 4  
Labor Day  
Veterans Day  
Thanksgiving - Two Days - Thursday and Friday  
Christmas - The City will observe the same holiday  
Schedule as McDowell County.

New Year's Day, July 4 and Veterans Day are floating holidays. The day observed is the day of the week on which the holiday actually falls. If the holiday should fall on a Saturday, Friday is observed, if the holiday falls on Sunday, Monday is observed.

Martin Luther King Day, Memorial Day and Labor Day are taken on the Monday that these holidays are observed according to the calendar.

Christmas is usually taken the work day before, Christmas Day, and the work day after. The actual holidays observed will be the same as those observed by McDowell County.

Salaried employees, other than Fire and Police Personnel, who, for reasons in the best interest of the public are required to work on a holiday shall be granted compensatory time off as soon as possible following the holiday.

All employees involved in a twenty-four (24) hour, seven (7) day a week operation will be granted eleven (11) or twelve (12) days off, depending on the number of holidays granted other employees, in lieu of fixed holidays. These days can be taken at a time that is agreeable with the department head and the operational schedule of the department.

The granted time off will equal the regular scheduled shift hours that one would normally work. If one is scheduled to work eight (8) hours, then eight (8) hours will be granted off for the holiday. These days may not be taken prior to the passing of the holiday.

Section 5. That the following be added to Section 2, of ARTICLE VII:

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.

This gift shall be in addition to any payment for unused vacation leave.

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

Said gift shall not be paid from City Taxes or from other State collected Local taxes not authorized for such purposes.

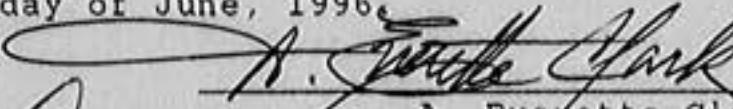
Section 6. That the following be added to Section 3, of ARTICLE VII:

It shall be the policy of the City of Marion to pay one hundred dollars (\$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.

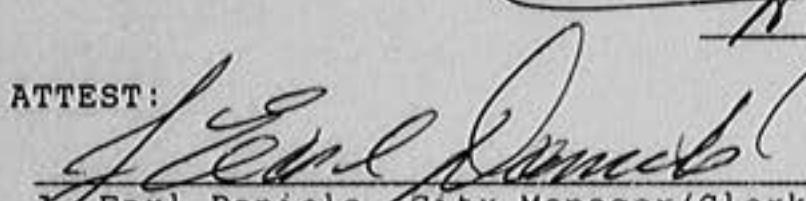
That said retired employee will be required to pay, in advance, the difference between the actual cost of Medical Insurance Coverage and the one hundred dollars (\$100.00) per month contributed by the City. The employee may continue to provide insurance coverage for his/her dependents, carried at the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

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 18th day of June, 1996.

  
A. Everett Clark, Mayor

ATTEST:

  
Earl Daniels, City Manager/Clerk

Resolution No: R-96-06-18-01

DOT - RESOLUTION - MUNICIPAL AGREEMENT - PROJECT R-3115: The City Manager presented a Municipal Agreement from the North Carolina Department of Transportation covering the improvements of US 70 East of the Catawba River Bridge to NC 226/US 221 Business.

CITY OF MARION  
RESOLUTION

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

WHEREAS, the North Carolina Department of Transportation has prepared and adopted plans to make certain street and highway improvements within this Municipality under Project R-3115, McDowell County, said plans consisting of grading, paving, drainage, culvert extension and pavement marking of US 70 East of the Catawba River Bridge to NC 226 / US 221 Business in Marion; and,

WHEREAS, said Department of Transportation and this Municipality propose to enter into an Agreement for the above-captioned project whereby this Municipality agrees: (1) to effect the necessary adjustment of any utilities under franchise without cost to the Department of Transportation, and (2) to provide for the adjustment of any municipally-owned utilities except water and sewer lines, without cost to the Department of Transportation, except that said Department will reimburse this Municipality in accordance with said Department's Municipally-Owned Utility Policy; and,

WHEREAS, said Department of Transportation agrees to acquire the right of way and construct the project in accordance with the approved project plans; and,

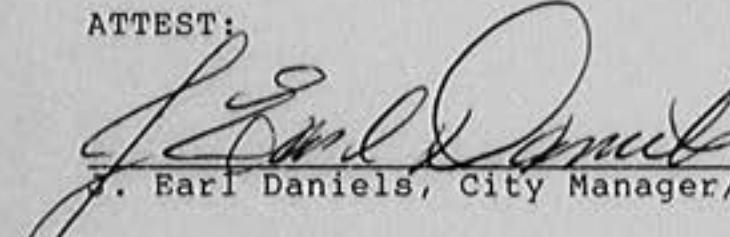
WHEREAS, the Agreement will further provide for the establishment, maintenance, and enforcement of traffic operating controls for the regulation and movement of traffic on the project upon its completion.

NOW, THEREFORE, BE IT RESOLVED that Project R-3115, McDowell County, is hereby formally approved by the City Council of the Municipality of Marion and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

ADOPTED this the 18th day of June, 1996.

  
A. Everett Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Resolution Number: R-96-06-18-02

**PUBLIC HEARING - 1996-97 CITY BUDGET:** The City Manager opened the Public Hearing on the proposed Budget for the City of Marion for the fiscal year 1996-97. No one was in attendance to ask questions or discuss the proposed Budget. Mayor Clark ask if any Councilman had any questions or comments about the proposed Budget. Councilman Owenby said he had been through the Budget several times and believed it was in order. Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted unanimously to adopt the following Budget Ordinance:

#### BUDGET ORDINANCE

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

**Section 1.** The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the fiscal year beginning July 1, 1996 and ending June 30, 1997 in accordance with the chart of accounts heretofore established by the City:

Administration	\$ 340,000
Purchasing and Warehousing	67,600
Inspection	95,200
Police Department	844,660
Fire Department	228,820
Public Works Administration	85,200
Fleet Maintenance	63,910
Street Department	609,250
Sanitation	350,900
Recreation	48,725
Cemetery	29,400
Non-Departmental	286,561
=====	
<b>TOTAL</b>	<b>\$ 3,050,226</b>

**Section 2.** It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1996 and ending June 30, 1997:

Prior Year's Taxes	\$ 25,000
Current Taxes - 1995	1,060,139
Inventory Taxes	187,700
Downtown Dev. Mun. Ser. Dist.	12,000
Tax Penalties & Interest	10,000
Privilege License Sales	17,000
Interest Earned	50,000
Rents and Concessions	12,000
Misc. Revenues	10,000
Utilities Franchise Tax	295,000
Intangibles Tax	35,574
Beer/Wine Revenue	18,870
Sales and Use Tax	475,000
Sales Tax Refund	25,000
ABC Revenues	115,000
ABC Officer Revenues	5,000
Court Costs, Fees & Charges	3,500
Parking Violations	1,200
County Fire Protection	71,010
County Contribution - Recycling	26,400
Cemetery Revenue	2,000
DOT Reimbursement - Curb Work	15,000
Garbage Fees	64,800
Gas Tax Refunds	9,000
Zoning Income - Inspection Fees	15,000
Vehicle Tax	165,320

Sale of Garbage/Leaf/Recycling Bags	1,000
Maint. Traffic Control Devices	3,000
Cable TV Revenues	25,000
Sales of Surplus Equipment	5,000
Contribution from W/S Fund	100,000
Surplus Appropriated	254,713
	=====
<b>TOTAL</b>	<b>\$ 3,050,226</b>

**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, 1996 and ending June 30, 1997:

Professional Services	\$ 2,000
Department Supplies	25,000
Contracted Services	184,928
	=====
<b>TOTAL</b>	<b>\$ 211,928</b>

**Section 4.** It is estimated that the following revenues will be available in the Powell Bill Fund for the fiscal year beginning July 1, 1996 and June 30, 1997:

Interest Earned	\$ 1,500
Powell Bill Allocation	152,313
Sales Tax Refund	2,000
Fund Balance - Prior Year	56,115
	=====
<b>TOTAL</b>	<b>\$ 211,928</b>

**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, 1996 and ending June 30, 1997 in accordance with the accounts heretofore approved for the City:

Utility Line Operations	\$ 584,760
Filter Plant	383,370
Waste Treatment Plant	592,685
Non-Departmental	519,803
	=====
<b>TOTAL</b>	<b>\$ 2,080,618</b>

**Section 6.** It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1996 and ending June 30, 1997:

Fund Balance	\$ 195,418
Interest Earned	3,500
Misc. Income	8,000
Reimbursement - Septic	5,000
Reimbursement - Pretreatment	25,000
Water Sales	575,000
Cut on Fees	35,000
Sewer Service	490,000
Water Taps	25,000
Sewer Taps	25,000
Sales & Use Tax Refund	150,000
Tank Truck Charges	500
Water Service Charge	366,400
Sewer Service Charge	176,800
	=====
<b>TOTAL</b>	<b>\$ 2,080,618</b>

**Section 7.** The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1996 and ending June 30, 1997:

Inventory (Supplies)	\$ 185,000
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**Section 8.** It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year July 1, 1996 and ending June 30, 1997:

Transfer from General Fund	\$ 5,000
Transfer from W/S Fund	5,000
Purchase by Other Funds	175,000
	=====
<b>TOTAL</b>	<b>\$ 185,000</b>

**Section 9.** The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1996 and ending June 30, 1997:

Reserve for future appropriations:	\$ 212,381
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**Section 10.** It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 1996 and ending June 30, 1997:

Transfer from General Fund	
Transfer from W/S Fund	
Interest on Investments	\$ 10,000
Fund Balance Appropriated	202,381
<hr/>	
<b>TOTAL</b>	<b>\$ 212,381</b>

**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, 1996 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 \$200,783,964.00 and estimated rate of collection of 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:

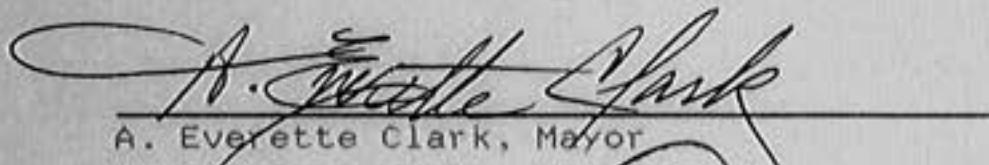
A. He may transfer amounts between objects of expenditure within a department without limitation and without a report being required.

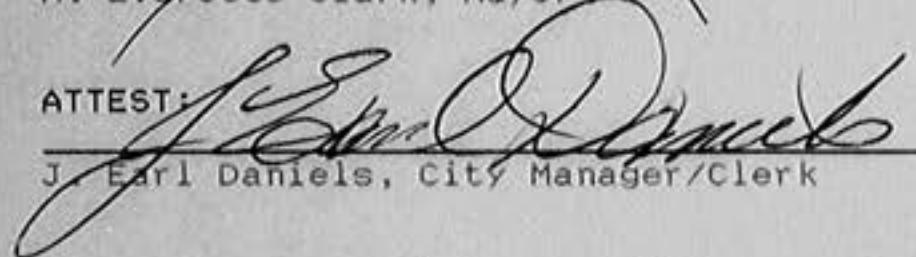
B. He may transfer amounts up to \$1,000.00 between departments of the same fund with an official report on such transfers at the next regular meeting of the City Council.

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 18th day of June, 1996.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk

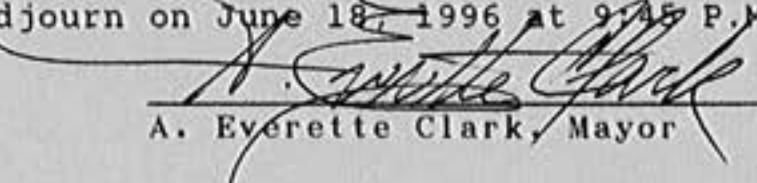
**COMMENTS FROM COUNCILMEN:** Councilman Owenby advised that he had received a complaint about the unmarked Police Car with tinted glass. He asked if it was legal for the City Police to have a car with tinted glass when others were not permitted to have tinted glass? Since the Police Chief was on vacation no one was present to answer the question.

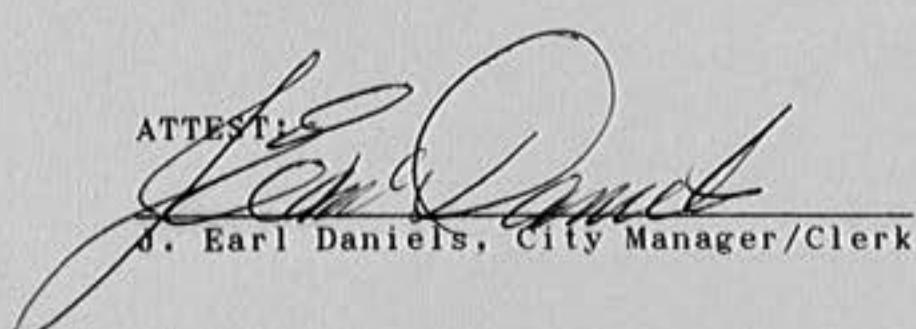
Councilman Edwards informed Council that he had received a complaint about damages to flower baskets in the Cemetery by what may have been weed eaters being used by the persons contracted to mow the Cemetery. The City Manager advised that he would have the Public Works Director speak to the mowers about the complaint. Councilman Edwards also stated that he had received a complaint about the McDowell Mission House located on Blue Ridge Street. The complaint was concerning the numbers of people staying there and the noise and Police responses to the house. He asked that this matter be investigated.

**CABLE TV SURVEY REPORT:** The City Manager passed out the Cable TV Survey Report prepared by David H. Harris and Marie Peppler. He advised the notice of public hearing on the proposed franchise would be held in the near future.

**NEXT MEETING DATE:** It was agreed that the next meeting date would be July 16, 1996 with only one meeting during the month of July.

**ADJOURNMENT:** Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to adjourn on June 18, 1996 at 9:45 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, July 16, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Steve Little, Lloyd Cuthbertson, Mike Edwards, Billy Martin and Cecil Owenby.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruett, Police Chief; Butch Howell and Paul Rhodes, HMS Representatives; Roger Watson, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF; Don Dillingham, News Reporter, The Independent.

GUESTS: Bill Howle, Post Office Box 176, Marion, N.C. 28752; Charles England, Route 5, Box 126, Marion, N.C. 28752; Stephanie Shipe, Post Office Box 1545, Marion, N.C. 28752; Rosie Clark, 112 Rutherford Road, Marion, N.C. 28752; Penny Rosendramy, 112 Rutherford Road, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the minutes of the June 18, 1996 City Council Meeting.

MS. ROSELIND CLARK: Ms. Roselind Clark appeared before the City Council to request an extension of time to cut overgrown weeds in her rear yard located at 112 Rutherfordton Road. Ms. Clark advised Council that she had been given until July 18 to cut and remove the weeds. Upon a motion by Councilman Owenby, seconded by Councilman Edwards, the Council voted to grant an extension of ten (10) days.

CORPENING CREEK WASTEWATER TREATMENT PLANT - MAJOR REPAIRS - ESTIMATED

COSTS: The City Manager presented two proposals to remove and replace a damaged drive unit on one of the clarifiers at the Corpeming Creek Plant. He advised that this work must be done as quickly as possible because if the back up unit goes down the plant will be out of operation. Buffalo Apparatus Service, Inc. submitted a proposal in the amount of \$41,140.64. Hobson Construction Company, Inc. submitted a proposal in the amount of \$19,150.00. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the Council voted to accept the low bid submitted by Hobson Construction Company, Inc. in the amount of \$19,150. The City Manager advised Council that there may be additional costs, if the lower unit is also bad.

BILL HOWLE - NEW DEVELOPMENT - SOUTH GARDEN STREET: Mr. Howle appeared before Council and advised that he is involved with a corporation planning the construction of townhouses, four doubles and two singles, on South Garden Street directly across the street from the Post Office. Mr. Howle advised that a storm drain turns water onto the property from Garden Street, that there is a sewer line running across the property that serves one or maybe two residences and that there is a ten foot wide alley that runs along the northern edge of the property. Mr. Howle also stated that there is a sewer line that runs diagonally across the corner of the property from the apartment complex south of this property to Madison Street. Mr. Howle advised that the development would add to the city's tax base and he would like the City to correct or help correct the storm water running across the property and the sewer-lines running across the property. Councilman Little suggested that the matter be referred to the Utility Committee for study and a recommendation back to Council. A short discussion followed. Upon a motion by Councilman Little, seconded by Councilman Owenby, the Council voted unanimously to refer the matter to the Utility Committee. It was agreed that the Utility Committee would meet at City Hall in the conference room on Thursday, July 25, 1996, at 8 A.M.

DESIGNER HARDWOODS - REQUEST FOR DOMESTIC SEWER SERVICE: The City Manager presented a request from Mr. Terry Smith, for sewer service for Designer Hardwoods, which will be located on N.C. 226 south, just north of I-40. The City Manager advised that City policy requires approval of Council for the City to provide sewer service outside the City Limits. Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, the Council voted unanimously to approve the request for sewer service.

CHAMBER OF COMMERCE - REQUEST TO USE LOGAN STREET PARKING LOT: The City Manager presented a letter from Mr. Rod Birdsong, requesting that the Chamber be allowed to use the Logan Street Parking Lot, from October 7 through October 13, for "kiddie rides". The rides would be provided by Lee's Rides, the vendor which conducts a carnival for the Marion Fire Department each June. The rides would be set up during the week and would operate on Friday night, October 11 and Saturday October 12, in conjunction with the Mountain Glory Festival. Upon a motion by Councilman Owenby, seconded by Councilman Little, the Council unanimously voted to authorize the use of the lot as requested provided the Chamber will execute an agreement holding the City harmless for any accidents or injuries and further provided the Chamber will be responsible for any damage to the parking lot. The City will not provide electricity or any other service,

other than garbage or trash pick-up and normal cleaning of the lot.

**McDOWELL CLEAN COUNTY SYSTEM - REQUEST FOR DONATION:** The City Manager presented a letter from Ms. Donna Stevens, MCCS Coordinator, requesting a donation of \$1.00 per employee for the Eco-Van Project. The letter stated that \$30,000 is needed for the salary for the teacher operating the van. The City Manager advised that \$1.00 per employee would amount to \$77.00. Councilman Little informed the Council that in his opinion this was a very worthwhile cause and made a motion that Council approve the request. This motion was seconded by Councilman Martin. Councilman Edwards advised that he agreed this it was a worthwhile cause but stated that there are many worthwhile causes and this would set a precedent and the City may start receiving additional requests for donations to worthwhile causes. A short discussion followed. The Council agreed that it may be better for members to personally make a contribution. Councilman Little advised that he wished to withdraw his motion. Councilman Martin agreed to withdraw his second.

**PUBLIC HEARING - CDBG - HOUSING DEVELOPMENT CATEGORY - HABITAT PROJECT - AMENDMENT:** The City Manager opened the public hearing. He explained that a Notice had appeared in the McDowell News to inform citizens about the Public Hearing. He announced that the purpose of the Hearing is to allow citizens to express their views concerning the City submitting an application for Community Development Block Grant funds. He advised that the City is considering submitting an application for Community Development Block Grant funds under the Community Revitalization Category. The City Manager asked if anyone present would like to speak to or make any comments about the City filing an application. Ms. Stephanie Shipe was present and commented the City should "go for it." There were no other comments. The City Manager closed the Public Hearing. It was agreed by City Council to proceed with the application.

**PUBLIC HEARING - CDBG - HOUSING DEVELOPMENT CATEGORY - HABITAT - PROJECT - AMENDMENT:** The City Manager opened the Public Hearing. He announced that the purpose of the Hearing was to allow citizens to express their views concerning the City amending a Community Development Block Grant, Housing Development Category. In May of 1995, the City received a grant to extend water and wastewater service to the McDowell Habitat project. The City would like to amend the project to use the remaining funds to pave the road serving these homes. The City Manager asked if anyone present would like to comment. There were no comments. The Public Hearing was closed by the City Manager. Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the Council voted unanimously to amend the CDBG project by transferring sufficient funding to provide for construction of the street as requested by Habitat Officials.

**RESOLUTION/AGREEMENT - DOT - UTILITY WORK:** A motion was made by Councilman Cuthbertson and seconded by Councilman Owenby for the adoption of the following Resolution, and upon being put to a vote was duly adopted:

CITY OF MARION

RESOLUTION

WHEREAS, the North Carolina Department of Transportation has prepared and adopted plans for the improvement of US 70 from east of the Catawba River Bridge to US 70-221 Business North of Marion; and,

WHEREAS, said Department of Transportation and the Municipality of Marion propose to enter into an agreement whereby said Department will include in its construction contract provisions for the relocation and adjustment of certain municipally-owned water and sewer lines located along the project, and the installation of certain betterment utility work; and,

WHEREAS, the Municipality agrees to reimburse the Department of Transportation for the cost of the betterment utility work with reimbursement to be made in a lump-sum amount upon completion of the work.

NOW, THEREFORE, BE IT RESOLVED that Project R-3115, McDowell County, is hereby formally approved by the City Council of the Municipality of Marion and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.



A. Everette Clark, Mayor

## ATTEST:

J. Earl Daniels, City Manager/Clerk  
Resolution Number: R-96-07-16-1

2 MG RESERVOIR - FINAL CHANGE ORDER: The City Manager presented a Final Change Order to the 2 MG Reservoir Project submitted by McGill Associates. The Change Order included the following:

1. Remove additional concrete and fill beneath proposed tank	\$ 10,347.75
2. Install handrail at top of tank	1,200.00
3. Delete one coat of paint on the existing tank	(4,500.00)

4. Install additional 111 LF of Asphalt Curb	333.00
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Net Increase to Contract Price \$ 7,380.75

Councilman Owenby stated that the City should not be responsible for the increase in cost for the removal of the additional concrete and the additional fill. He said the contractor should have understood how much concrete had to be removed and how much fill had to be placed before submitting his bid. The engineer should have provided him with that information. He stated that was not the fault of the City and he did not see why the City should have to pay for it. Following a short discussion, it was agreed that Gary McGill should be invited to the next meeting to discuss this matter. It was also agreed that he should submit in writing, prior to the meeting, sections of the bid documents relating specifically to this and any documentation between the Engineer, vendor, contractor, sub-contractor and City regarding removing the additional concrete and additional fill beneath the proposed tank.

PUBLIC SERVICE GAS COMPANY - PROPOSED FRANCHISE: The City Council was provided with a proposed Franchise Agreement prepared by Public Service Gas Company and recommended changes to the proposed Franchise submitted by City Attorney Penn Dameron. Upon a motion by Councilman Edwards, seconded by Councilman Little, the City Council voted unanimously to amend the proposed Franchise Agreement as recommended by the City Attorney. The City Manager was instructed to submit the proposed Franchise as amended to Public Service Gas Company for their review. The City Manager advised that it would be necessary for Council to have two readings of the Franchise Agreement at two regular meetings of Council prior to adoption. He stated that advertisements for the Hearings would be placed in the newspaper once a week for four consecutive weeks prior to the first Hearing. The first reading would be September 3 and the second September 17 1996.

CEMETERY LOTS - MRS. TAYLOR BOONE: The City Manager informed Council that he had received a Memo from Tax Collector Claudia Hill regarding a telephone call from Mrs. Taylor Boone in reference to cemetery lots at Oak Grove Cemetery. The cemetery book shows that Block 20, lot 10 was in the name of Mrs. Taylor Boone under date of April 12, 1951. At that time grave lots sold for \$20.00 per grave. Mrs. Boone made a \$40.00 payment on April 12, 1951 on a four grave lot and a \$10.00 payment on May 15, 1954. She was sent a letter by Town Manager Reese C. Snyder dated September 9, 1964 which stated that the balance of \$30.00 must be paid in full by October 6, 1964 or the remainder of the lot unoccupied by a deceased would be put up for sale to anyone desiring to purchase it. Mayor Clark suggested that the City deed Ms. Taylor Boone, now Mrs. Carrie Collins, a deed for the two graves she paid for in 1951 and give her credit for the \$10.00 payment as half the cost on a third grave site and offer her first option on the fourth grave site at the current price of \$400.00. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to deed Mrs. Taylor Boone (Mrs. Carrie Collins) two grave sites without further costs and agree to sell the third grave site at \$200.00 and the fourth grave site at \$400.00.

CEMETERY LOTS - MRS. GREEN BIGGERSTAFF: The City Manager informed Council that he asked that Ms. Hill do more investigating to see if there were other similar problems with cemetery deeds. He informed Council that Block 20, Lot 9 and Lot 10 is in the name of Mrs. Green Biggerstaff and no payment has been made on the lots. The deed for these grave sites was dated January 5, 1951. The total cost for all eight grave sites, at that time, was \$160.00 (\$20.00 each).

He advised that Alvin Callahan checked the lots on July 9, 1996 and informed the Manager that one grave is occupied and a large family marker is located in the center of the eight grave lot. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to direct the City Manager to try and locate any family members and provide them first option on purchasing the unoccupied grave sites at the present price of \$400.00 each, with a \$20.00 charge for any occupied graves. Should family members not be interested in purchasing the grave sites then the family marker must be removed so the City can sell the unoccupied graves on a first come first serve basis.

**ANNUAL CERTIFICATION OF FIREMEN:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the City Council unanimously voted to certify the below roster as a valid and accurate list of all eligible firemen of the Marion Fire Department.

CO.	DEPT.	LASTNAME	FIRSTNAME	MI	SSN
58	0617	ANDERSON	DONALD	R	239-80-7486
58	0617	CRESON	DURWOOD	R	244-33-4498
58	0617	DARK, III	R	M	242-86-7797
58	0617	EDWARDS	BRUCE	A	237-56-0350
58	0617	HOLLIFIELD	MILLARD	D	245-48-5402
58	0617	KING	CHARLES	S	245-74-9646
58	0617	LAUGHRIDGE, JR.	JAMES	V	246-35-5503
58	0617	LAUGHRIDGE, JR.	JOHN	C	244-04-1898
58	0617	LAUGHRIDGE, JR.	JOHN	M	239-80-7405
58	0617	LAWS	BRYAN	M	246-45-6015
58	0617	LAWS	DENNIS		237-04-6015
58	0617	MCCARTHY	ROGER	W	241-88-7093
58	0617	MCINTOSH	ERIC	L	237-19-0233
58	0617	MILLIGAN	THOMAS	S	244-68-1106
58	0617	MORRIS	JIMMY	W	245-08-7939
58	0617	MORROW, III.	JOHN	M	237-29-3604
58	0617	NANNEY	FREDRICK	C	242-11-1035
58	0617	NEAL, III	JAMES	E	245-72-9325
58	0617	OWENBY	KEVIN	W	245-27-8330
58	0617	POTEAT	JERRY	W	244-66-3485
58	0617	POTEAT	KENNETH	W	240-15-9682
58	0617	POTEAT	KEVIN	W	244-49-6470
58	0617	PRESNELL, JR.	CHARLES	L	238-82-9830
58	0617	REESE	JOHN	E	242-82-7999
58	0617	SMITH, III	WILLIAM	R	245-44-5503
58	0617	STEVENS	JERRY	C	245-72-8781
58	0617	STEVENSON	BRIAN	K	237-35-3738
58	0617	SUTTLE, JR.	CHARLES	G	239-84-9781
58	0617	TAYLOR	CAMERON	K	241-55-2965
58	0617	WILSON	BRYAN	W	241-80-2625

Council was advised that three firemen have been deleted from the active roster. Mr. Phillip Fowler did not complete his six months probationary period. Mr. James Willis is retiring with twenty-two years and nine months of service and Mr. Jim Young is retiring with twenty-five years of service.

**SEPTIC TANK WASTEWATER - PROPOSED NEW POLICY:** The City Manager informed Council that the present policy regarding acceptance of septic tank waste at the Corpening Creek Wastewater Treatment Plant is not working properly. He asked that Council rescind the present policy and adopt a new policy. Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council unanimously voted to rescind the policy and adopt the following policy:

**CITY OF MARION, NORTH CAROLINA**

**CITY POLICY**

**REGARDING ACCEPTANCE OF SEPTIC TANK WASTEWATER**

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

- a. That the City be provided with the name of the owner, telephone number, and the address where the wastewater is pumped from the septic tank.
- b. That no grease, industrial waste or any other type wastewater, other than domestic, be deposited into the city sewerage system.
- c. That the wastewater be deposited only in a designated manhole on the City Warehouse property located at the end of Shop Drive.
- d. That the Public Works Director or his designee be present when any wastewater is deposited into the City sewerage system.

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

f. That the City of Marion shall be paid \$15 per truck delivery, plus \$.02 per gallon for septic tank wastewater deposited in the sewerage system. If actual gallons are not known, the Public Works Director or his designee will determine the number of gallons to be to be used for billing purposes.

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

h. That the City of Marion will prosecute any person, firm or corporation depositing any wastewater from any vehicle or tank without having the necessary interim permit issued by the City.

ADOPTED July 16, 1996.

**NATIONAL LEAGUE OF CITIES MEETING - SAN ANTONIO:** The City Manager asked that any member planning to attend the National League of Cities Meeting in San Antonio needs to notify the Manager prior to 4:00 P.M. on Friday so reservations can be made. The Manager informed Council that Mayor Clark would be attending since he is a member of the Board of Directors for the North Carolina League of Municipalities and is one of only two representatives from North Carolina serving on the National Leagues of Cities Small Cities Advisory Committee. Councilman Little advised that he would be attending since he is serving on the National League of Cities Public Safety And Crime Prevention Committee.

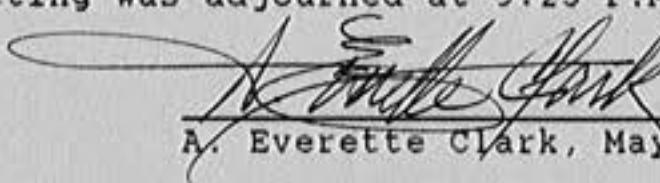
**COMMENTS FROM COUNCIL:**

**COUNCILMAN MARTIN:** Councilman Martin advised that residents on Woodlawn Street were grateful for all the work by City forces in clearing Kudzu in the alleyway and adjoining lot on Woodlawn Street.

**COUNCILMAN LITTLE:** Councilman Little asked that the matter regarding charging the Red Cross for use of the Community Building be placed back on the Agenda for Council's next meeting.

**COUNCILMAN OWENBY:** Councilman Owenby advised that there are still problems with the Traffic Light on Sugar Hill Road at the intersection of Stroud and Sugar Hill causing traffic to back up on Sugar Hill Road.

**ADJOURNMENT:** Councilman Edwards informed Council that Ms. Elizabeth Conley of 108 North Madison Street, a well known school teacher in the community, passed away on July 15, 1996. He advised that she had a great interest in the community and its citizens and was very well informed about and interested in the City government. She will be missed by her neighbors and many friends. Councilman Edwards made a motion that the meeting be adjourned in memory of Ms. Elizabeth Conley. The motion was seconded by Councilman Cuthbertson and the meeting was adjourned at 9:25 P.M. on July 16, 1996.

  
A. Everette Clark, Mayor

ATTEST:

  
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 6, 1996 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor A. Everette Clark, Councilmen Steve Little, Lloyd Cuthbertson, Mike Edwards, Billy Martin and Cecil Owenby.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Buck Byrd, Chief Water Filter Plant Operator; Tom Pruett, Police Chief; Roger Watson, News Reporter, The McDowell News; Bill Shaw, News Reporter, WDLF; Don Dillingham, News Reporter, McDowell Independent; Van McKinney, News Reporter, WBRM; Dave Harris, Cable TV Franchise Negotiator; Custom Communications.

GUESTS PRESENT: Garland B. Franklin, 234 Spring Street Marion, N.C. 28752; Susan Smith (TDA); Richard Kasek, 616 Monte Vista Avenue, Marion, N.C. 28752; Mr. & Mrs. Clarence Smith, 271 Cherokee Way, Marion, N.C. 28752; Neal Watson, 323 Summit Street, Marion, N.C. 28752; Donna Arentsen, McDowell Independent; Dennis Marmon, Intermedia; Wayne Ollis, Intermedia; John Fender, Professional Video; Elizabeth Pendley, 805 Tennessee Avenue, Marion, N.C. 28752; Dean Walker, 132 N. Garden Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the minutes of the July 16, 1996 City Council Meeting.

MR. & MRS. CLARENCE SMITH - COMPLAINT - POLICE DEPARTMENT: Mr. & Mrs. Clarence Smith of 271 Cherokee Way in Marion appeared before Council advising that their son had received some unnecessary verbal abuse from several Marion Police Officers, one in particular, on the night of July 5, 1996 in front of Ms. Tillie Twitty's residence on Hudgins Street.

Following a short discussion Mayor Clark agreed to meet with all parties involved when Mr. and Mrs. Smith's son, now residing in Greenville, N. C., is back in the area.

MR. NEAL WATERS - COMPLAINT - WATER RUNOFF - SUMMIT STREET:  
Mr. Neal Waters advised Council that during heavy rains storm water runs off the Reservoir property and causes damage to his property.

This matter was referred to the Street Committee.

MS. ELIZABETH PENDLEY - REQUEST - CITY TO ASSIST IN INSTALLING A DRAIN PIPE ON PRIVATE PROPERTY:  
Ms. Pendley appeared before Council to request that the City install a four foot diameter drain pipe, she has purchased, on her property located on Tennessee Avenue. The City Manager advised Council that the small creek, where the pipe would have to be installed, was located on private property. This matter was referred to the Street Committee.

PUBLIC HEARING - CABLE TELEVISION FRANCHISE AGREEMENT -  
INTERMEDIA CABLEVISION - FIRST READING: The City Manager opened the Public Hearing and advised that a Public Notice had appeared once a week for four consecutive weeks in the McDowell News advising of the time, date, and location of the Public Hearing. He advised that the proposed Franchise Agreement had been available in his office for public inspection. The Manager announced that this would be the First Reading of the proposed Franchise Agreement and that a Second Reading would be held on August 20, 1996.

Upon a motion by Councilman Little, seconded by Councilman Edwards, the City Council unanimously voted to waive the actual reading of the proposed Franchise Agreement due to its length.

The Manager asked if anyone present wished to address Council with regard to the proposed Franchise Agreement.

Mr. Richard Kasek of 616 Monte Vista Avenue informed Council that he had stopped by the Manager's Office and read the proposed Franchise Agreement. He advised that he had conducted a study using information from the Charlotte Observer about other cable systems and determined that Intermedia Cablevision in Marion provided fewer channels at a higher cost to the consumer.

Mr. Dean Walker of 132 North Garden Street agreed there are too few channels and rates are too high. Mr. Walker stated that he did not care for the QVC channel that sells merchandise to consumers and would rather that be a channel of choice. He complained about the cable company getting some revenues from local sells from the channel and then the consumer having to pay to watch the channel.

A question was raised as to why the document specified that only five additional channels would be added. Mr. Dave Harris informed the Board that he had asked for more but the attorneys for Intermedia refused and informed him that according to Federal Law the number and type of channels cannot be specified in the Franchise Agreement.

Following a lengthy discussion, Mr. Dennis Marmon, representing Intermedia Cablevision addressed Council.

The following is an extract of the salient comments made by Mr. Dennis Marmon in his presentation to Council:

My name is Dennis Marmon. My address is 725 Louiseville Road, in Alcoa, Tennessee. I am very pleased to be here tonight and actually a lot of the questions that have been asked run very parallel with my notes that I wanted to share with you at any rate.

DM) On the number of channels on the cable system, there are several things that go into the process of determining that. One, when the public hearing was held, that Mr. Harris held, pursuant to the FCC regulations is the, is the time to try to understand what the community needs are and make sure the cable system is being designed that has programming that is going to be representative of what the public would like.

DM) There are no specific FCC guidelines or even requirements that even get into specifying numbers of channels or which channel should be there. As a matter of fact, they have tried to shy away from that specifically. That ought to be a market driven condition. We talked with Mr. Harris and when the discussion of the five channels came up, I think from a legal counsel preference they prefer not to have any comment about that because we are going to be adding on more than five channels to the cable system snide I'm sorry if they has been a perception of that's what its going to be.

(DM) I'll get backed up a little bit and share just a little bit with you. We've rebuilt a huge number of cable systems in East Tennessee and North Carolina and other places and we have added significant channels to every one of those. We were talking here today, just looking at the channel survey that was done in this market, and we know that immediately there is probably going to be somewhere in the vicinity of eight to ten additional basic channels to be added on to the existing basic package that exist right now. We will also be adding on what we call channel tiers. There is some specialized channels that people might want to subscribe to and all the customers don't want to bear that in their rate base. Very quickly, when this system is rebuilt, and again I will talk to the, if there is another question of the 18 months, I'll be more than happy to talk to that because that's the last date and for the last drop at the very end of the system be completed. A vast majority of the system and the customers connected will happen much sooner than that.

(DM) Sports South, BET, the Learning Channel, Arts and Entertainment, ESPN II, Home and Garden Television, offering pay-per-view channels that will be available as well as new product tiers, and when I'm talking about that, I'm talking about , about this grouping, what we've done in a couple of other markets, we've taken the history channel and the sci-fi channel, Turner Classic movies, cartoon network and FX movies and combined those into a five channel package for those customers that want them for a price of \$1.95 a month. That way, only those customers that want them, have that on their bill. All the other customers do not have that imbedded in their rate base. So, again, there is going to be many more than five channels added onto the cable system.

(DM) Someone asked what is going to be the bare minimum that you would be looking at on the basic level of service. Now in a absolute bare minimum would be five. Now, again, I can give you the channel line ups before and after in Rogersville, Tennessee, Crossville, Laven County, Farigut, West Knox County, where we have added between ten and fifteen channels on our basic service. Uh, so, if that answers the questions about the channels.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the first reading of the Cable Television Franchise Agreement with Intermedia Cablevision, as amended to include the four minor changes pointed out by Mr. Dave Harris and also including the extract of salient comments made by Mr. Dennis Marmon in his presentation to Council being attached to and made a part of the Cable Television Franchise Agreement.

McDOWELL CLEAN COUNTY SYSTEMS - MS. DONNA STEVENS:

Ms. Stevens informed Council that she just wanted to personally thank Council for the donation to help with the printing and distribution of pamphlets encouraging recycling and clean up in Marion and McDowell County.

McDOWELL TOURISM - INTEREST IN MARION DEPOT - MS. SUSAN SMITH:

Ms. Smith informed Council that she had spoken to the Mayor and City Manager about the Marion Depot. She advised that there was some interest in restoring the Depot for some office space for McDowell Tourism and maybe the Downtown Business Association and using the other open space for an open-air market or farmers market and maybe an area for local artists to display and sell their crafts. She presented a drawing by local architect Dean Trakus showing a floor plan and his ideas on interior renovations. Ms. Smith informed Council that she was not asking for money but Council's assistance in acquiring the property. She advised that she had spoken to MEDA Director Robert Dunn about the possibility of some grant funds to help in restoring the structure. She informed Council that the structure is in the Downtown Area and the Historical District and funding may be available to assist in the work. Following a short discussion Mayor Clark asked for volunteers to serve on a committee. Councilman Owenby, Councilman Cuthbertson, Councilman Edwards and the City Manager were appointed to serve on the Marion Depot Committee.

2 MG RESERVOIR - FINAL CHANGE ORDER - MR. GARY MCGILL:

Mr. Gary McGill appeared before Council to review the Final Change Order for the 2 MG Reservoir Project as requested by Council. Prior to the meeting each Councilman was provided with a written report from Mr. McGill. Councilman Owenby had raised a question at the last meeting regarding the item on "removing additional concrete and fill beneath proposed tank - \$10,347.75." Councilman Owenby had stated that the contractor's bid should have covered the total cost. Mr. McGill advised that test borings were made to determine sub-surface conditions. This information was given to the bidders and used in preparing their bids. The concrete bottom of the old tank removed several years ago was left in and had to be removed for construction of the new reservoir. Due to the excessive concrete deterioration of the old slab, the boring drill bit could not discern the actual thickness of the old slab. The thickness was thought to be 12 inches. The engineer in researching their records on the old reservoir, concluded the slab was thicker than 12 inches and therefore assumed that it was approximately 18 inches thick. When the old slab was excavated, it was discovered to be 32 inches thick, which required removal of an additional 146 cubic yards of old concrete slab. The construction drawing show the slab thickness to be approximately 18 inches, which should have indicated to the contractor that the exact thickness was not known. Mr. McGill informed the Council that if the concrete slab had been 20 to 22 inches thick, a change order would not have been necessary based on a reasonable approximation of its thickness. Mr. McGill stated that since the thickness of the slab was 32 inches it is not reasonably close to the approximated thickness. This is considered a materially different subsurface condition from that shown on the drawings in accordance with Section 4.2.3.2 of the General Conditions of the Contract Documents. McGill explained that the entire area underneath the proposed tank had to be excavated equally to prevent differential settlement and that it was necessary to excavate an additional 161 cubic yards of soil and place an additional 613 tons of stone back-fill. He stated that in his opinion the additional work was necessary and the costs are justified in accordance with the Contract Documents.

Councilman Little made a motion that the following Final Change Order be approved. This motion was seconded by Councilman Martin and the vote was as follows: Ayes: Councilmen Little, Martin, Edwards and Cuthbertson