

time payment and not provide an extended warranty. He informed Council that costs to make repairs already on the Clear-well are approximately \$62,000.00, not including the additional costs of engineering and administration.

A discussion followed.

Councilman Little made a motion that the City accept an extended warranty of twenty years, for repairs without costs to the City, or the City accept a one time payment in the amount of \$25,000.00 and Hickory Construction Company forfeit the balance due on the project and that Hickory Construction Company respond no later than September 10, 1996. This motion was seconded by Councilman Cuthbertson and was unanimously carried.

MR. BILL HOWLE - NEW DEVELOPMENT - SOUTH GARDEN STREET:

The City Manager informed Council that Mr. Bill Howle and Mr. Charles England met with Councilman Little, Councilman Cuthbertson, Public Works Director Glen Sherlin and the City Manager on Thursday July 25, 1996, in the conference room at City Hall.

He advised Council that the Utility Committee makes the following recommendations:

1. City forces replace an existing sewer main, which presently runs across the property near the northern property line, with a new sewer line, with necessary manholes, to be located near the center of the property from Garden Street to Madison Street. The new sewer line would be generally under the proposed driveway which will serve the proposed Townhouses. The owners would provide the city with an easement, twenty feet wide centered on the sewer line, for maintenance and replacement purposes. In addition, the owners would provide the necessary easements to connect existing sewer lines, serving structures located on Garden Street, presently served by one or more sewer lines crossing the property.

2. City forces relocate the sewer lines serving the existing condominiums in exchange for necessary easements and providing the lines can be relocated based on elevations.

3. City forces install one section of storm drainage pipe from the storm drain located on South Garden Street. Storm water would run from this pipe along the paved driveway serving the proposed Townhouses or be piped by the owners across the property.

Councilman Little made a motion that Council accept the recommendations of the Street Committee. This motion was seconded by Councilman Cuthbertson and was unanimously carried.

RESOLUTION - CITY MEDICAL PLAN - INSURANCE DEDUCTIBLE:

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

RESOLUTION


CITY MEDICAL PLAN

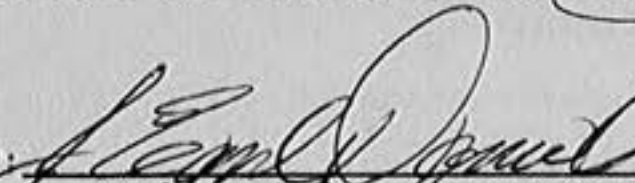
WHEREAS, the City of Marion has changed Medical Insurance Plans for employees and employee dependents covered by the plan: and

WHEREAS, the employee deductible has increased from three hundred dollars (\$300.00) to seven hundred fifty dollars (\$750.00).

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Marion that the City of Marion will reimburse any city employee up to maximum of three hundred seventy-five dollars (\$375.00), for all amounts paid by the employee over three hundred seventy-five dollars (\$375.00) toward the seven hundred fifty dollar (\$750.00) deductible on the employee only, upon confirmation that the employee has paid said amounts. Only one check will be issued to each qualifying employee. Said check to be issued prior to June 30, 1997. The City of Marion will not pay any amounts toward the deductible for employee dependents. This resolution will cover the calendar year 1996 only.

Adopted this the 6th day of August, 1996.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

R-96-08-06

COMMUNITY BUILDING - RENTAL POLICY - RED CROSS - PROPOSED EXCEPTION:

Upon a motion by Councilman Little, seconded by Councilman Edwards, the City Council voted unanimously to allow the Red Cross Blood Mobile to use the Marion Community Building four times per year without charge and that this be the sole, exclusive and only exception to the rule that all using the Community Building must pay the appropriate rental fees.

COMMUNITY BUILDING - PROPOSED TREE REMOVAL:

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, the Council voted unanimously to have City employees remove a dying tree next to the wall near the southern property line behind the fenced area near Main Street.

BALDWIN AVENUE/SIXTH STREET - PROPOSED ADDITION TO CURB WORK: The City Manager informed Council that Councilman Owenby has received a request from residents living near the intersection of Baldwin and Sixth Streets in East Marion that the City install some additional curb and gutter. Councilman Owenby advised that there is concern about school children having to walk on the edge of Baldwin Avenue due to heavy traffic. Following a short discussion the matter was referred to the Street Committee.

CODE OF CONDUCT/EQUAL EMPLOYMENT AND PROCUREMENT PLAN:

Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council voted unanimously to adopt the following Code of Conduct and Equal Employment and Procurement Plan:

CODE OF CONDUCT

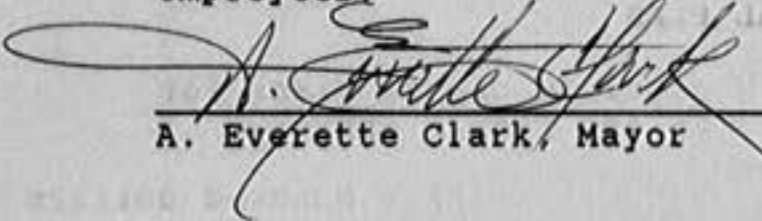
The City of Marion will follow this Code of Conduct in the implementation of its CDBG Program.

The Community Development Block Grant - U.S. Housing and Urban Development Programs of the Federal and State Governments requires Grantees (City of Marion) to maintain a written Code of Conduct for public officials (elected and appointed), officers, employees or agents engaged in the award or administration of contracts supported by federal funds; and

No public official, employee, official, officer or agent of the Grantee shall participate in selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, is involved; and

Attachment O - Circular No. A-102 of the Code of Federal Regulations, Section 7 entitled "Code of Conduct" defines such a conflict of interest that would involve a financial or other interest, real or apparent, is involved; and

North Carolina General Statutes Chapter 14, Article 31 entitled "Misconduct in Office" provides standards, regulations, and penalties for violation of state and local laws by public officials, officers and employees.


A. Everett Clark, Mayor


Date

CITY OF MARIONEQUAL EMPLOYMENT AND PROCUREMENT PLAN

The City of Marion maintains the policy of providing equal employment opportunities for all persons regardless of race, color, religion, sex, national origin, handicap, age, political affiliation, or any other non-merit factor, except where religion, sex, national origin, or age are bona-fide occupation qualifications for employment.

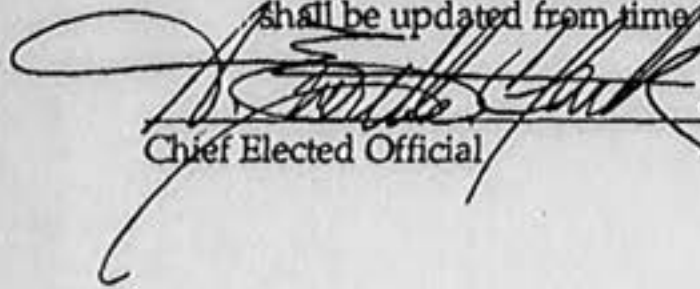
In furtherance of this policy the City prohibits any retaliatory action of any kind taken by any employee of the City against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

The City shall strive for greater utilization of all persons by identifying previously under utilized groups in the work force, such as minorities, women, and the handicapped, and making special efforts toward their recruitment, selection, development, and upward mobility and any other term, condition, or privilege of employment.

**Section 3 Plan For Employment Opportunities
For Businesses And Lower Income Persons
City of Marion
1995 CDBG-CR Program**

To insure that to the greatest extent possible contracts for work are awarded to businesses located in or owned in substantial part by persons residing in the Section 3 covered area, as required by Section 3 of the Housing and Urban Development Act of 1968, the City of Marion has developed and hereby adopts the following Plan:

1. This Section 3 Plan shall apply to services and needs in connection with the grant including, but not limited to, businesses in the fields of planning, consulting, design, building construction/renovation, maintenance and repair, etc.
2. This Section 3 covered project area for the purpose of this grant program shall include the City of Marion.
3. When in need of a service, the City will identify suppliers, contractors or subcontractors located in the Section Minority Business Directory published through the State Department of Commerce, local directories, and the Small Business Administration local offices. Word of mouth recommendations shall also be used as a source.
4. The City will include this Section 3 Clause in all contracts executed under this CDBG program. Where deemed necessary, listings from any agency noted in No. 3 above shall be included as well as sources of subcontracts and suppliers.
5. The prime contractor selected for major public facility or building construction work will be required to submit a Section 3 Plan which will outline his/her work needs in connection with the project. Should a need exist to hire any additional personnel, the McDowell County Employment Security Commission shall be notified and referred to the contractor.
6. Each contractor for housing rehabilitation under the program, as applicable, for jobs having contracts in excess of \$10,000 shall be required to submit a Section 3 Plan. This Plan will be maintained on file in the grant office and shall be updated from time to time or as the grant staff may deem necessary.


Chief Elected Official

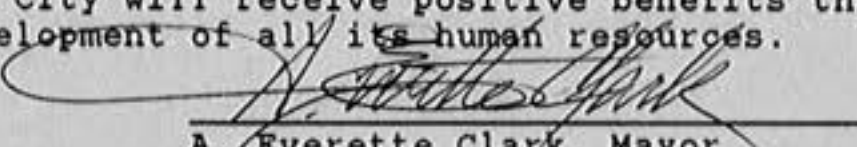
8/6/96
Date


Attest

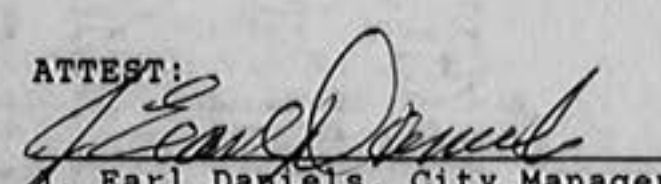
Responsibility for implementing equal opportunities and Affirmative Action measures is hereby assigned to the City Clerk and/or other persons designated by the Mayor or City Council to assist in the implementation of this policy statement.

The City shall develop a self-evaluation mechanism to provide for periodic examination and evaluation. Periodic reports as requested on the progress of Equal Employment opportunity and Affirmative Action will be presented to the City Council by the City Clerk.

The City is committed to this policy and is aware that with its implementation, the City will receive positive benefits through the greater utilization and development of all its human resources.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

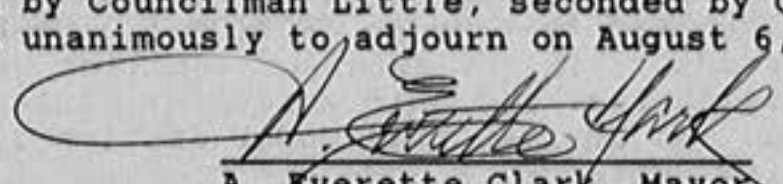
LETTER - ROGER WATSON - LAST MEETING:

Mr. Roger Watson, Reporter for the McDowell News informed Council that he had accepted a position with the Black Mountain News as general manager/editor. He thanked Council for the professional manner in which they conducted business and complimented the City Staff.

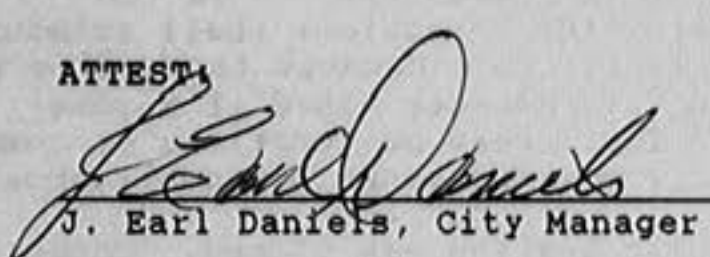
OAK GROVE CEMETERY - PROPOSED TREE REMOVAL:

The City Manager informed Council that the Public Works Director has received a request for the City to remove two small trees from a private cemetery lot. Following a short discussion it was agreed the city would remove the trees as requested provided the owners pay for the cost of removal.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn on August 6, 1996 at 11:20 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, August 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 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; Mike Conley, News Reporter, The McDowell News; Tom Wilson, News Reporter, WDLF; Van McKinney, News Reporter, WBRM; Don Dillingham, News Reporter, The Independent.

GUESTS PRESENT: Garland B. Franklin 234 Spring Street, Marion, N.C. 28752; Michael O'Buckley 83 Laurel wood Drive, Marion, N.C. 28752; Linda Cloherty 305 North Garden Street, Marion, N.C. 28752; Rod Birdsong Chamber of Commerce; Kim Honeycutt; Tammy Munger 48 Pulliam Street, Marion, N.C. 28752; Elizabeth Pendley 805 Tennessee Street, Marion, N.C. 28752; Marshall Dark 11 Lake Club Drive, Nebo, N.C. 28761; Kaye Cuthbertson 201 Broad Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council voted unanimously to approve the minutes of the August 6, 1996 Meeting as corrected.

PUBLIC HEARING - CABLE TELEVISION FRANCHISE AGREEMENT - INTERMEDIA CABLEVISION - SECOND READING: The City Manager opened the Public Hearing and announced that this would be the second reading of the proposed Cable Television Franchise Agreement. The Ordinance is entitled, AN ORDINANCE BY THE CITY COUNCIL, CITY OF MARION CONSENTING TO THE CABLE TELEVISION FRANCHISE AGREEMENT (FRANCHISE ORDINANCE) BETWEEN THE CITY OF MARION AND INTERMEDIA CABLEVISION. The City Manager asked that Mr. Dave Harris of Custom Communications to review all changes prior to open discussion. Mr. Harris advised that under SECTION 1. GRANT OF FRANCHISE, (a) the sentence which reads, "In the event of conflict between the terms and conditions of the City Charter and this Agreement, this Agreement shall control." is deleted. He advised that under SECTION 12. FRANCHISE FEES, (e) the following sentence is added at the end of the paragraph: "If the underpayment is five (5%) percent or more, the Franchisee shall reimburse the City for the cost of the audit." He informed Council that all other changes were just clerical errors. The City Manager asked if anyone present had any questions or comments. There were no questions or comments from the general public. Several Council members spoke favorably about the final document. The City Manager announced that the public hearing was closed. Councilman Little made a motion that the actual reading of the document be waived and that the Ordinance, entitled, AN ORDINANCE BY THE CITY COUNCIL, CITY OF MARION CONSENTING TO THE CABLE TELEVISION FRANCHISE AGREEMENT (FRANCHISE ORDINANCE) BETWEEN THE CITY OF MARION AND INTERMEDIA CABLEVISION be approved as amended. This motion was seconded by Councilman Owenby with all Councilmen voting in the affirmative. (This Ordinance # O-96-20-08-01 is located in the Legal Documents in the safe under Legal Documents - Cable Franchise - Document # 672.)

PUBLIC HEARING - AMENDMENTS TO THE MARION ZONING ORDINANCE: The City Manager opened the public hearing and read the legal notice which appeared in the McDowell News. The City Manager advised that the Planning Board was to consider amendments to two Articles:

1. ARTICLE IV. DEFINITION OF TERMS USED IN THE ORDINANCE.
SECTION 400. DEFINITIONS.
2. ARTICLE X. EXCEPTIONS AND MODIFICATIONS.
SECTION 1000. FRONT YARD SETBACK REQUIREMENTS.

The City Manager informed Council that under Item 1, the Planning Board voted unanimously to continue the Public Hearing to the next regular meeting of the Planning Board scheduled for September 12, 1996, for additional research to determine what affect, if any, the proposed amendments would have on other sections of the Marion Zoning Ordinance. Under Item 2, the Planning board voted unanimously to recommend to the Marion City Council that the last sentence of Article X. Exceptions and Modifications, Section 1000. Front Yard Setback Requirements be amended to read as follows:

IN SUCH CASE, THE SETBACK ON SUCH LOT MAY BE LESS THAN THE REQUIRED SETBACK BUT NOT LESS THAN THE SETBACK OF THE AFOREMENTIONED EXISTING BUILDINGS.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted unanimously to accept the recommendations of the Marion Planning Board.

CATAWBA RIVER WASTEWATER TREATMENT PLANT EXPANSION - BIDS:

The City Manager informed Council that bids for the Expansion of the Catawba River Wastewater Treatment Plant were publicly opened and read aloud at 2:00 P.M. on the 15th day of August, 1996 in the City Hall conference room. He advised that four bids were received as follows:

R. T. Construction Company, Inc.	\$185,000.
Laughlin-Sutton Construction Company	209,100.
Hickory Construction Company	278,270.
Thamer Construction Company, Inc.	288,000.

He informed Council that McGill Associates recommends that the City award the Catawba River Wastewater Treatment Plant Expansion contract to R. T. Construction Company, Inc. at their contract bid amount of \$185,000.

Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council unanimously voted to award the contract to R. T. Construction Company, Inc. at their contract bid amount of \$185,000.

PARADE PERMIT - McDOWELL COUNTY RECREATION DEPARTMENT/McDOWELL HOSPITAL:

Ms. Linda Cloherty appeared before Council to request approval for The McDowell Hospital Mountain Glory Challenge, a marathon type road race on the day of the Mountain Glory Festival, Saturday, October 12, 1996. There is proposed a 10K, a 5 K and a one mile fun run/walk event. The City Manager advised Council that Police Chief Tom Pruett had been over the route and made some changes and recommends approval. The City Manager informed Council that a portion of the route extends outside the City limits on Airport Road. He advised that runners would probably be on both sides of the road and that traffic control would be very important in that area but that it is outside the City Limits. Upon a motion by Councilman Little, seconded by Councilman Owenby, the Council unanimously voted to approve the request.

RICHARD DRIVE - DEVELOPMENT - MARSHALL DARK: Mr. Dark informed Council that there are plans to extend a road from Richard Drive to approximately five and one half acres of land he and Mr. Roy Davis own, located just outside the City Limits. He asked the width of the area to be graded for a public street to meet city requirements, should they decide to develop the property at a later date. He informed Council that Mr. Michael O'Buckley will be grading or having the property graded under some private agreement. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted to refer the matter to the Street Committee.

TREE BOARD - APPOINT EXOFFICIO MEMBER: The City Manager recommended that Council appoint Public Works Director Glen Sherlin as an Exofficio Member of the Tree Board to replace Ms. LuAnn Ellis. He informed Council that Ms. Ellis will be leaving employment with the City on Friday. She has been employed by the City for nine and one half years. Her husband, Kevin Ellis has accepted a position with the Gastonia Gazette and they will be moving. The City Manager advised that she had been a very good and valuable employee and she will be missed. Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the Council unanimously voted to appoint Mr. Sherlin as Exofficio Member to the Tree Board.

TENNESSEE AVENUE - MS. PENDLEY - DRAINAGE PIPE INSTALLATION - REPORT FROM STREET COMMITTEE: The City Manager reported that the Street Committee met and traveled to Ms. Pendley's residence on Tennessee Avenue. He reported that the Street Committee determined that the creek crossing Ms. Pendley's property is located on private property and that the City cannot install a four foot diameter drainage pipe on private property. Ms. Pendley and her daughter asked if there were any way she could receive help to install the pipe. The City Manager informed Ms. Pendley that he would ask Planning Director Lovina Smith if Ms. Pendley's property could be added to the application for a Community Development Block Grant which may provide some assistance not only for installation of the pipe but also some improvements to her residence.

RESERVOIR - STORM WATER DRAINAGE PROBLEM - STREET COMMITTEE REPORT: The City Manager reported that the Street Committee met with the Public Works Director at the reservoir to determine what action would be needed to satisfy Mr. Waters complaint about storm water causing damage to his property. Two suggestions were made by the Public Works Director:

1) Install 160 lineal feet of asphalt curb around the tank perimeter at an estimated cost of \$600.00; 2) install approximately 200 lineal feet of 12" drain pipe with one catch basin on Summit Street extension parallel with Mr. Water's property at an estimated cost of \$1,445.00. This would prevent any storm water run off onto Mr. Water's property. The Public Works Director and City Manager recommended installing the drainage pipe to solve the problem. Following a short discussion the Public Works Director was directed to talk with Mr. Waters to see if he agrees with the recommended procedure.

BALDWIN AVENUE/SIXTH STREET - PROPOSED ADDITION TO CURB WORK/SIDEWALK - REPORT FROM STREET COMMITTEE: The Street Committee recommended the installation of 125 feet of new monolithic type curb with sidewalk on the East side of Baldwin Avenue from Sixth Street to the City Limits for an estimated material cost of \$650.00. The Committee also recommended installation of curb and gutter without sidewalk from Baldwin Avenue down the east side of Sixth Street for a distance of 200 linear feet for an estimated material costs of 1,115.00. Upon a motion by Councilman Martin, seconded by Councilman Owenby, the City Council unanimously voted to approve the recommendations of the Street Committee and proceed with the work.

CONGRESS OF CITIES - APPOINT ONE VOTING DELEGATE AND ONE ALTERNATE: Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, the City Council unanimously voted to appoint Mayor Clark as the voting delegate and Mayor Pro-Tem Little as alternate.

MONTE VISTA AVENUE - NORTH MAIN STREET: The City Manager informed Council that this matter had been added to the agenda at the request of Mayor Clark. He explained that an elderly gentleman died as the result of a car accident at the intersection on Saturday, August 17, 1996. He was apparently making a left turn from Monte Vista Avenue to Main Street and was struck by a truck traveling north on Main Street. The City Manager advised that left turns from Monte Vista to Main Street are prohibited. Councilman Owenby suggested that a lighted sign be placed at the intersection.

Police Chief Pruett advised that he would be meeting with DOT Traffic Engineer Ken Putnum on Thursday at 9 A.M. It was agreed that the City Manager, Public Works Director and members of the Street Committee meet with him.

FLEMING AVENUE - SCHOOL TRAFFIC HAZARD: Council was advised that school traffic traveling north on Fleming Avenue, in the afternoons, is backing up causing other traffic to cross the yellow line to pass. The Mayor explained that unless some action is taken, traffic traveling south on Fleming is going to meet head-on in the curve with traffic traveling north. It was agreed to have DOT Traffic Engineer Ken Putnum look at the problem.

RESOLUTION - NATIONS BANK: The City Manager presented Resolutions to Nations Bank., N.A. for Opening and Maintaining a Deposit Account and/or Certificates of Deposit for the following Accounts:

Industrial Park	123138042
Habitat - CDBG	123127978
W/S Improvements	123129629
Prison Project Fund	123129173
Police Control Sub Acct.	127128072
Powell Bill	121026991
Internal Service Fund	120100102
W/S Fund	121008072
General Fund	120100219

Any two of the following officers or employees are authorized to sign checks:

A. Everette Clark, Mayor
J. Earl Daniels, City Manager
Kathryn B. McEntire, Bookkeeper
Robert N. Parker, Administrative Assistant

The Resolutions are located in the safe and designated as legal document number 673.

DECOTECH, L.C.: The City Manager reported to Council that Duke Power Company turned off the electricity at Decotech on Tuesday afternoon, August 13, 1996. He listed the following amounts Decotech owes the City:

Decotech

1995 Personal Tax	\$32,304.05
1995 Real Tax	3,716.36

1996 Personal Tax	16,258.31
1996 Real Tax	13,201.66
Total Tax	\$65,480.38
W/S Bills	16,264.52
Total	\$81,744.90

Based on estimates from the Utility Department, the average monthly water/sewer bill for Decotech is approximately \$17,000. This amounts to an annual loss of Revenue of approximately \$204,000, which represents about 10% of the Water/Sewer Budget.

The City Manager advised that several steps had been taken to reduce expenditures. The purchase of two police cars, one 2 1/2 ton truck, and one garbage scooter has been placed on hold. The City will not replace any employees leaving employment with the City unless in positions which must be filled.

The City Manager announced that Mr. Robert Parker, Administrative Assistant had been appointed by the Manager to fill the positions of Personnel Director and ADA Coordinator to replace Ms. LuAnn Ellis, instead of employing a new person. He also announced one vacancy in the Street Department which will not be filled. Plans are to reduce the Street Cleaning schedule and have the driver work with the concrete crew following the shorter cleaning schedule. He also informed Council that he had instructed all Department Heads not to make any purchases that are not absolutely necessary. In addition, some schools requiring registration fees and overnight accommodations have been canceled. He expressed a need to try and encourage new customers to connect to the city water system.

COUNCILMAN EDWARDS - LETTER FROM CITY EMPLOYEE: Councilman Edwards presented the Mayor, City Councilmen and City Manager with a letter he received.

COUNCILMAN EDWARDS,

I AM AN EMPLOYEE OF THE CITY & THIS LETTER REGARDS THE DOUBLE STANDARD THAT EXISTS WITHIN OUR GROUP. IT SEEMS THERE ARE ONE SET OF RULES FOR BLUE COLLAR WORKERS & ANOTHER FOR MANAGEMENT.

HOW DO SOME DEPT. HEADS GET WEEK LONG CONVENTION (VACATION) TRIPS TO THE COAST WITH FAMILY MEMBERS TRAVELING VIA CITY VEHICLE WHILE WE CAN'T ATTEND A SIMPLE ONE DAY INSTRUCTIONAL CLASS IN ASHEVILLE? WHY ARE WE NOT ALLOWED TO STOP AT FAST FOOD ESTABLISHMENTS DURING BREAK WHEN ADMINISTRATION & PURCHASING USE THE DRIVE-THRU DAILY?

ALSO ONE EMPLOYEE RECEIVED VERBAL DISAPPROVAL FROM HIS SUPERVISOR FOR HAVING HIS WIFE & CHILDREN AT PUBLIC WORKS DURING LUNCH WHILE THE CITY'S PURCHASING AGENT KEEPS HER CHILD AT WORK SEVERAL DAYS A WEEK WITH NOTHING SAID.

I APOLOGIZE FOR CONTACTING YOU IN THIS MANNER BUT FEAR OF REPRISAL MAKES IT NECESSARY. MANY WORKERS, MYSELF INCLUDED HAVE TOO MANY RESPONSIBILITIES TO JEOPARDIZE OUR JOBS BY SPEAKING OUT.


I HOPE THIS DOESN'T SEEM TRIVIAL TO YOU BECAUSE WE HAVE NO VOICE OF SUPPORT IN THE CITY. EVERYTHING I'VE WRITTEN IS TRUE & EASILY SEEN IF SOMEONE WOULD ONLY LOOK. I HOPE YOUR VISION IS GOOD.

THANK YOU FOR YOUR TIME,
THE SILENT (FOR NOW) MAJORITY

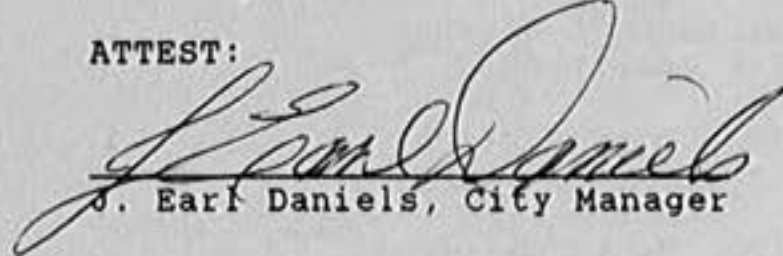
Councilman Edwards advised that the letter was not signed.

The City Manager advised that he had not seen the letter before nor had he been made aware by anyone there was a problem. He informed Council that the City only pays the employees' expenses for travel, room and board for schools and conferences. He said that he would investigate the matter and report back to Council.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Councilman Little, Council voted unanimously to adjourn on August 20, 1996 at 9:50 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, September 3, 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, Billy Martin, and Cecil Owenby.

Mayor Clark announced that Councilman Edwards was on vacation and would not be present for the meeting.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Bill Shaw, News Reporter, WDLF; Van McKinney, News Reporter, WBRM; Don Dillingham, News Reporter, The Independent; and Freddie Killough, DBA.

GUESTS PRESENT: Garland B. Franklin, 234 Spring Street; Dot Baldwin, DAR; and Marcella Anderson, DAR.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted unanimously to approve the minutes of the August 20, 1996 Meeting.

PUBLIC HEARING - FRANCHISE - PUBLIC SERVICE COMPANY OF NORTH CAROLINA - FIRST READING: The City Manager opened the Public Hearing. He announced that a public notice announcing the public hearing appeared in the McDowell News on Monday - August 5; Monday - August 12; Monday - August 19; and Monday - August 26, 1996. The City Manager advised that a copy of the Draft Franchise Agreement had been available in City Hall for the general public's review. He asked if anyone present wished to address Council concerning the proposed draft agreement. There being no questions or statements from the public, the City Manager closed the public hearing. A question was raised concerning SECTION 13. It was suggested that the City should have one set of as-built plans, to be used by city forces, to prevent digging into a gas line when making emergency repairs to water and/or sewer lines.

There was no one present representing Public Service Company of North Carolina, Inc.

Councilman Little made a motion to dispense with the actual reading of the agreement and to approve the First Reading of the Ordinance entitled, AN ORDINANCE GRANTING A GAS FRANCHISE TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, FOR THE CITY OF MARION, NORTH CAROLINA, FOR A PERIOD OF THIRTY (30) YEARS, after amending SECTION 13 to read as follows:

SECTION 13. PLAT OF GAS SYSTEM. The Company shall maintain maps or plats of its Gas System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's offices, and the City shall have a duplicate copy of these maps.

This motion was seconded by Councilman Cuthbertson with all Councilman present voting in the affirmative.

CITY OF MARION
ORDINANCE

AN ORDINANCE GRANTING A GAS FRANCHISE TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS AND ASSIGNS, FOR THE CITY OF MARION, NORTH CAROLINA, FOR A PERIOD OF THIRTY (30) YEARS

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

SECTION 1. Definitions.

Whenever and wherever used in this Ordinance the following words and names shall have the following respective meanings:

- (a) **CITY COUNCIL** shall mean the City Council of the City of Marion, North Carolina, as now or hereafter constituted.
- (b) **COMPANY** shall mean Public Service Company of North Carolina, Incorporated, its successors and assigns.
- (c) **CITY** shall mean the City of Marion, North Carolina, including its present and future City limits.
- (d) **DEPARTMENT OF TRANSPORTATION** shall mean the North Carolina Department of Transportation or its successors.
- (e) **GAS** shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina es Commission.

(f) GAS SYSTEM shall mean all facilities of the Company in the City used for the transmission or distribution of Gas within the City.

(f) GAS SYSTEM shall mean all facilities of the Company in the City used for the transmission or distribution of Gas within the City.

(g) COMMISSION shall mean the North Carolina Utilities Commission or any successor body lawfully constituted.

(h) FERC shall mean the Federal Energy Regulatory Commission or its successor.

(i) PUBLIC WAY OR WAYS shall mean any public street, avenue, road, alley, lane, bridge or other public right-of-way within the City over which the City as of the applicable time has jurisdiction or exercises control.

SECTION 2. GRANT OF AUTHORITY.

The City hereby grants to the Company the right and privilege to construct, operate and maintain a gas utility system within the City for the transmission, distribution and sale of Gas to customers or users of the Company. The Company shall have the right, authority and privilege to construct, install, operate, maintain, lay, re-lay, renew, replace and repair gas pipes, mains, pipelines and necessary appurtenances thereto in, through, across, along and under the Public Ways within the City for the pumping, handling, transmission, distribution and sale of Gas for any and all purposes, and for such objects and purposes to take up the pavement in Public Ways, and to make such excavation and changes therein as may be necessary therefor.

SECTION 3. NONEXCLUSIVE GRANT.

This franchise is not exclusive. The City may grant the same or similar rights and privileges to other persons at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.

SECTION 4. FRANCHISE NOT WAIVER OF LAW.

This franchise is not a waiver of any present or future law or regulation. This franchise is not a limitation upon the authority of the City to adopt any law or regulation.

SECTION 5. CONFLICT WITH OTHER REGULATIONS.

In the event any provision of this franchise is in conflict with any rule of the Commission or FERC, so that the Company cannot reasonably comply both with the provisions of this franchise and any rule of the Commission or FERC, then the Company shall comply with such Commission or FERC rule instead of the conflicting provision of this franchise, unless the Commission or FERC, if requested to do so, agrees to waive the conflict, in which case the franchise shall control.

SECTION 6. SERVICE STANDARDS.

(a) The Company shall maintain and operate its Gas System in a reasonably efficient manner in order to supply adequate gas service to its customers in the City.

(b) The Company shall comply with all applicable ordinances and regulations of the City not in conflict with the rules of the Commission of FERC or with this franchise.

(c) In the event of any interruption or impairment of service or failure of supply of Gas by reasons of force majeure, act of God, strike, breakdown, accident or other happening beyond the reasonable control of the Company, the Company shall use due diligence to restore such service within a reasonable time. Such interruption or failure shall not constitute a breach of this Ordinance, unless the Company has failed to use due diligence, or service is not restored within a reasonable time, in which case the City may declare a breach to have occurred.

SECTION 7. CONDITIONS ON USE OF PUBLIC WAYS.

(a) The Company shall construct, operate and maintain its Gas System so as to cause the minimum reasonable interference with the public use of any Public Ways, or with any abutting property owner's access thereto.

(b) The Company shall place the gas mains and pipes of its Gas System in the Public Ways at such location as the City may prescribe. The Company shall construct and locate its gas mains and pipes so as not to interfere with existing sewer or water connections or sewer lines or water mains. The Company will take reasonable steps necessary to protect the facilities of the City and other utilities during the work.

(c) The Company shall coordinate with other utilities which use the Public Way. Upon request of the City, the Company shall provide information identifying the location of Company facilities.

SECTION 8. EXCAVATION IN PUBLIC WAYS; RESTORATION; DAMAGE.

(a) Whenever the Company excavates in any of the Public Ways pursuant to this franchise, such excavation shall be made by the Company in compliance with the laws and regulations of the City in effect at the time.

(b) Upon installation by the Company of gas mains or pipes, the Company shall, without delay, refill the trenches in which the mains and pipes are located according to standards established by the City. The Company shall promptly restore and replace the pavement, sidewalk, curbs or gutters in any Public Way destroyed, disturbed or damaged by such work, in as good or better condition than before the excavation took place.

SECTION 9. INSPECTION.

The City shall have the right to inspect all construction and installation work performed by the Company pursuant to this Ordinance and to make such other inspections as it shall deem necessary to ensure compliance with this Ordinance by the Company.

SECTION 10. INDEMNIFICATION'S.

The Company shall indemnify and hold harmless the City, its officers and employees from any cost, expenses, claims, judgments, suits or demands resulting or arising from the action or inaction of the Company in constructing, operating or maintaining its Gas System, in carrying on the business of selling, transmitting or distributing Gas, or in exercising or failing to exercise any right or privilege granted by this Ordinance, save and except for any such losses, costs, expenses, claims, judgments, suits or demands resulting or in any manner proximately caused by the negligent action or inaction of the city or any of its officers, agents or employees. The Company's obligation to indemnify the City and such persons at any time is conditioned, however, on the City having notified the Company in writing of any such claim, demand or suit in sufficient time to give the Company reasonable opportunity to resolve or defend the same on behalf of the City. In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand or suit on behalf of the City, and the City shall cooperate fully with the Company in any such undertaking. If, after proper notification, the Company fails to undertake any such responsibility, the City shall have the right to resolve or defend any such claim, demand or suit at the expense of the Company.

SECTION 11. RULES AND REGULATIONS.

The Company may from time to time declare, make and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the City.

SECTION 12. RATES.

The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 13. PLAT OF GAS SYSTEM.

The Company shall maintain maps or plats of its Gas System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's Offices, and the City shall have a duplicate copy of these maps.

SECTION 14. BANKRUPTCY.

In the event (a) the Company is adjudged bankrupt or (b) its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, or (c) the Company reorganizes, merges or consolidates with any other Company, or (d) the properties and business of the Company are foreclosed or sold to satisfy any lien or indebtedness or obligation of the Company, then the interest, rights and remedies of the City in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance.

SECTION 15. REVOCATION.

In the Event the Company violates or fails to perform any of the provisions of this Ordinance and within sixty days after receipt of written notice of the same from the City has failed to cure or remedy, or to have begun reasonable steps to cure or remedy, any such violation, failure or default, then the City Council may give at least thirty (30) days written notice to the Company specifying the violation or failure constituting the grounds for revocation and

notifying the Company to appear at a hearing before the City Council to show cause why this franchise should not be revoked. If at such hearing the City Council should determine that the Company's violation, failure or default has been substantial, repeated or flagrant, then upon such determination the City Council may revoke and terminate this franchise; provided, however, that the Company may file with the City within ten (10) days after any such determination the Company's election to appeal such determination to the proper North Carolina court, and in that event the City and Company agrees that such court shall hear and determine de novo whether there has been a substantial, repeated or flagrant violation, failure or default by the Company of the terms, conditions or obligations of this Ordinance. A violation or default which cannot be cured by the Company shall not be grounds for revocation and termination, unless such violation or default shall be determined to be material and continuing.

SECTION 16. SEVERABILITY.

Should any court of competent jurisdiction declare any part, term or provision of this Ordinance illegal, unauthorized or in conflict with any law of the United States or the State of North Carolina, or to be in conflict with any valid rule or regulation duly promulgated by any agency or regulatory body of the United States or the State of North Carolina, the remaining portions or provisions of this Ordinance shall not be affected thereby.

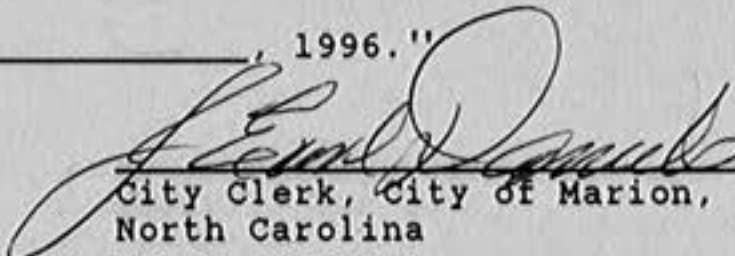
SECTION 17. CERTIFIED COPY TO COMPANY.

The City Clerk shall deliver to the Company an executed or conformed copy of this Ordinance and the Company's written acceptance thereof, certified as follows:

"Certified to be a true and exact copy of an ordinance Duly adopted by the City Council of the City of Marion, North Carolina, on the _____ day of _____, 1996, and the acceptance thereof by Public Service Company of North Carolina, Incorporated.

The _____ day of _____, 1996."

(City Seal)



City Clerk, City of Marion,
North Carolina

SECTION 18. EFFECTIVE DATE: ACCEPTANCE BY COMPANY: TERM.

This Ordinance shall be effective from and after the _____ day of _____, 1996, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist and continue for a period of thirty (30) years hereafter. Adopted by the City Council the _____ day of _____, 1996.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

APPROVED AS TO FORM

City Attorney

RICHARD DRIVE - DEVELOPMENT: The City Manager informed Council that Mr. Marshall Dark asked that this item be tabled, since the surveyor has not completed his work and the necessary plats are not now available for Council's review.

MARION THOROUGHFARE PLAN: The City Manager advised that he understood that Ms. Leta Huntsinger was to be present at the meeting to speak to Council on the progress on the Marion Thoroughfare Plan. Mayor Clark informed Council that she could speak to Council if she arrived later during the meeting.

PROCLAMATION - CONSTITUTION WEEK: Ms. Dot Baldwin and Ms. Marcella Anderson spoke to Council about Constitution Week. The following proclamation was read by the City Manager:

PROCLAMATION CAROLL BALDWIN HALL DAY

WHEREAS,

IN 1928, CARROLL BALDWIN'S VISION OF A RECREATIONAL CENTER BECAME A REALITY AND WAS THUS NAMED; AND

WHEREAS,

THE SUCCEEDING OFFICIALS OF MARION MANUFACTURING COMPANY CONTINUED TO DESIGNATE PROCEEDS FOR ITS OPERATION; AND

WHEREAS, THE STOCKHOLDERS OF THIS COMPANY CONSIDERED THIS INVESTMENT WORTHWHILE FOR THE WELFARE OF EMPLOYEES AND THEIR FAMILIES LIVING IN THE VILLAGE OF EAST MARION, AND

WHEREAS, YOUNG PEOPLE OF THAT VILLAGE GREW UP TO BE LOYAL CITIZENS AND PROUD AMERICANS; AND

WHEREAS, THESE YOUNG PEOPLE EXCELLED IN HIGH SCHOOL AND COLLEGE ATHLETICS, RECEIVING SCHOLARSHIPS AND PRESTIGIOUS AWARDS, SOME OF WHICH PLAYED IN THE SEMI AND PRO RANKS; AND

WHEREAS, THROUGH THEIR CHRISTIAN HERITAGE DISPLAYED RESPECT, HONOR AND LOYALTY TO THEIR FELLOWMAN AND GOD; AND

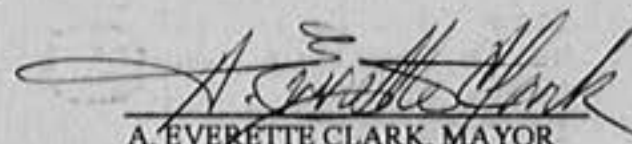
WHEREAS, THE EFFORTS OF COMMITTEE MEMBERS OF "CARROLL BALDWIN HALL DAY" BRING TOGETHER A REUNION OF THE VILLAGERS AND PARTICIPANTS OF THE RECREATIONAL FACILITY AND PROGRAMS; AND

WHEREAS, THIS COMMITTEE CONSISTS OF HAROLD DEAN MEDFORD, CHAIRMAN, W. T. BROADWELL, LUCILLE HUFFMAN, WAYNE LONG, FRED MOODY, TALMADGE RUMFELT AND JACKIE TURNER; AND

WHEREAS, ITS MAIN PURPOSE IS TO RENEW FRIENDSHIPS AND HONOR LONG TIME STAFF MEMBERS OF CARROLL BALDWIN HALL, DIRECTOR WILTON CARTER, ASSISTANT DIRECTORS

WHEREAS, THE VILLAGE OF EAST MARION IS NOW A PART OF THE CITY OF MARION.

NOW THEREFORE, I, MAYOR A. EVERETTE CLARK, HEREBY OFFICIALLY PROCLAIM MAY 25, 1996 AS "CARROLL BALDWIN HALL DAY."


A. EVERETTE CLARK, MAYOR
CITY OF MARION

LITTER BUGS ME DAYS" - CLEANUP WEEK: Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted unanimously to encourage the participation of organizations, businesses, churches and other concerned groups and citizens in organizing a citywide and countywide cleanup campaign to be held September 13 - 29, 1996. Governor Hunt will issue a proclamation designating this time as "LITTER BUGS ME DAYS" and the campaign will include the "BIG SWEEP" waterway cleanup, to be held September 21.

RESERVOIR - STORM WATER DRAINAGE PROBLEM: Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted unanimously to authorize city forces to install appropriate drainage pipes and boxes to provide for control of storm water from the Reservoir property. City employees will install approximately 200 feet of 12" drain pipe with one catch basin on Summit Street extension at an estimated material cost of \$1,445.00.

KUDZU COMPLAINT - MRS. GOURLEY - RUTHERFORDTON ROAD: The City Council was advised that Ms. Gourley and Ms. Shirley Ward stopped by the City Manager's Office to complain about Kudzu on the creek bank near their property on Rutherfordton Road. The City Manager informed Council that Ms. Gourley stated that the Kudzu is located on an unopened city street. She provided a deed referring to a street 42 feet wide. Following a short discussion the Manager was directed to have the City Attorney check into the matter and advise if it is a City Street or a private road.

CDBG APPLICATION - SCATTERED HOUSING REHAB - LOCAL OPTION ALTERNATIVES: The City Manager informed Council that as part of the City of Marion's CDBG application for scattered site housing rehabilitation funds, the City is eligible to apply for local option funds totaling 15% of the grant amount. The local options are:

1. Health-related needs
2. Emergency repairs
3. Fair housing and/or Section 3 planning or training.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to apply for Emergency repairs and Section 3 planning or training funds.

CDBG - PROJECT ADVISORY COMMITTEE - APPOINTMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to appoint the following persons to the CDBG PROJECT ADVISORY COMMITTEE:

A. Everett Clark, Mayor
Lovina Smith, City Planner
Edward Shell, Project Participant
Ruby Harris, Project Participant
Gary Trantham, Project Participant

ORDINANCE - ESTABLISHING TEMPORARY WATER/SEWER CONNECTION FEES: A proposed Ordinance establishing a temporary reduction in Water/Sewer Connection fees was

presented. The City Manager advised that due to the closing of Decotech, the City's largest Utility Customer, the City was in need of additional water customers. Councilman Owenby stated again that he favored lower water and sewer connection fees. He stated that in his opinion the connection fees are too high. The City Manager stated that the connection fees are considerably lower than those recommended by McGill Associates. A short discussion followed. Councilman Owenby made a motion that Council adopt the following Ordinance and that customers connecting to either system make a down-payment of at least \$100.00, with the balance to be paid off by March 31, 1997. This motion was seconded by Councilman Little with all members of Council present voting in the affirmative.

CITY OF MARION, NORTH CAROLINA

ORDINANCE

TEMPORARY WATER/SEWER CONNECTION FEES

WHEREAS, the City of Marion has lost a major water/sewer customer; and
WHEREAS, the revenues lost will require immediate reduction in expenditures; and
WHEREAS, the City is in need of additional customers to try and replace lost revenues.

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

Section 1. That the following temporary Water/Sewer Connection Fees shall be effective only from September 9, 1996 through and including March 31, 1997:

WATER SERVICE CONNECTION FEES:

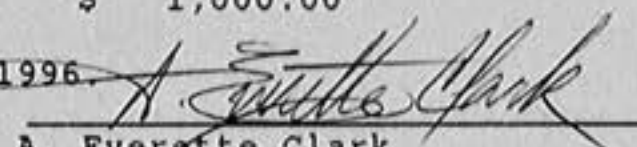
<u>SIZE SERVICE</u>	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
3/4" METER	\$ 350.00	\$ 550.00

SEWER SERVICE CONNECTION FEES:

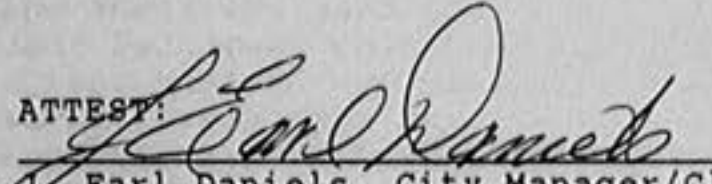
Sewer Service Connection Fees are based on the size water meter serving the property.

<u>SIZE SERVICE</u>	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
3/4" METER SERVICE	\$ 625.00	\$ 1,000.00

Adopted this the 3rd day of September, 1996.


A. Everett Clark
Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk
Ordinance # 96-09-03-02

PROPOSED SEWER RATES FOR PRIVATE WELLS: Council was informed that several sewer customers do not purchase water from the City, with at least one customer using both water from the City and also from private wells. The City Manager informed Council that the cost of Wastewater operations is not covered by the sewer revenues collected by the City. Councilman Little made a motion that Council adopt the following ordinance establishing sewer rates for metered private wells. The motion was seconded by Councilman Owenby and the vote was as follows:

Ayes: Councilmen Little, Owenby, and Martin
No: Councilman Cuthbertson

CITY OF MARION

ORDINANCE

SEWER RATES FOR CUSTOMERS DISCHARGING WASTE WATER
FROM METERED PRIVATE WELLS

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

Section 1. The following sewer rates shall apply to customers discharging waste water to the City Sewer System from metered private wells:

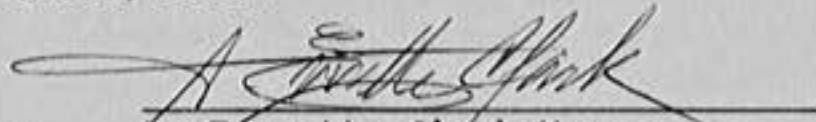
SEWER RATES, PRIVATE METERED WELLS

<u>Gallonage</u>	<u>Inside City</u>	<u>Outside City</u>
Service Fee	\$6.00 Plus	\$6.00 Plus
0 to 100,000 gal.	\$2.10/per 1,000 gal.	\$4.20/per 1,000 gal.


Over 100,000 gal. \$1.43/per 1,000 gal. \$2.86/per 1,000 gal.
 Over 1 Million gal. \$1.35/per 1,000 gal. \$2.70/per 1,000 gal.

Section 2. This ordinance shall be effective upon adoption and the rates established herein shall appear in the October 1996 water/sewer bills.

Adopted this the 3rd day of September, 1996.


 A. Everett Clark, Mayor

ATTEST:


 J. Earl Daniels, City Manager/Clerk

Ordinance # 96-09-03-03

COUNTY CDBG APPLICATION - SEWER SERVICE STUMPTOWN AREA: An application has been submitted by McDowell County to provide funds for providing sewer service to a part of the Stumptown Area. The City Manager informed Council that the application would stand a better chance for approval if the City would make a contribution toward the project. He advised that a part of the grant funds would be provided to pay the City connection fees for customers connecting to the City sewer system. He suggested that Council provide a contribution equal to one-half the amount received by the City in connection fees from the CDBG Grant. Councilman Little made a motion that the City provide a contribution of one half the actual amount of funds received from the CDBG Grant for connection of new customers to the sewer lines installed under the grant. This motion was seconded by Councilman Cuthbertson, with all Councilman present voting in the affirmative.

POWER CURBER - REQUEST TO PURCHASE: The City Manager presented a request that Council permit the purchase of a machine to install asphalt and concrete curbs. He advised that the cost of the machine would run approximately \$15,000.00 but would save the City funds from having to contract for curb work. The present cost for asphalt curbing is \$3.50 per foot. The Manager advised that the machine could be purchased with Powell Bill Funds. Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to approve the request.

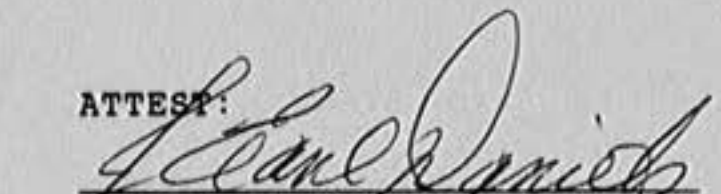
SURPLUS EQUIPMENT: It was announced that a proposal had been received to purchase the 1980 Ford F800, Street Flusher Truck. The City Manager advised that the truck had not been declared surplus by Council and that the City could not sell the vehicle except by auction or advertisement. Councilman Owenby suggested that the City keep the truck and use it for back up and let the concrete crew use it. It was also suggested that the truck be placed in the items to be auctioned. Councilman Owenby said the City should ask for bids to determine who should do the auction this year. He said there were a number of auctioneers in the County. Following a short discussion, Councilman Little, made a motion that the 1980 Ford F800 Street Flusher Truck be declared surplus to the City's needs and that the City advertise to accept sealed bids for the sell of the vehicle, reserving to Council the right to reject any and all bids. This motion was second by Councilman Cuthbertson with all Councilmen present voting in the affirmative.

STORM DRAIN - NORTH GARDEN AND NEW STREETS: Councilman Cuthbertson asked the status of the cleaning of the storm drain on North Garden and New Streets. Public Works Director Glen Sherlin advised that the DOT was not able to clean the drain. It is believed that the pipe is filled with roots. Councilman Cuthbertson asked that someone check with DOT about their plans.

ADJOURNMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted to adjourn at 9:16 P.M., Tuesday, September 3, 1996.


 A. Everett 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, September 17, 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.

Councilman Little arrived for this meeting at 7:15 p.m., due to one of his Daughters being in a school program.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Charles Burgin, City Attorney; Jennifer Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Don Dillingham, News Reporter; The Independent.

GUESTS PRESENT: Leta Huntsinger, North Carolina Department of Transportation, Raleigh, North Carolina; Travis Marshall, North Carolina Department of Transportation, Raleigh, North Carolina; Gilbert Hollifield, P.O. Box 939, Marion, North Carolina 28752; Mr. & Mrs. Ted Duncan, P.O. Box 816, Marion, North Carolina 28752; Garland Franklin, 234 Spring Street, Marion, North Carolina 28752; Archie Eply, 12 Gaddy Road, Marion, North Carolina 28752; Bill Rayner and Eric Robinson, Public Service Company of North Carolina, Gastonia.

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 September 3, 1996 Meeting.

PUBLIC HEARING - FRANCHISE - PUBLIC SERVICE COMPANY OF NORTH CAROLINA - SECOND READING: The City Manager opened the Public Hearing. The City Manager asked if there was any one present who wished to address Council concerning the proposed draft agreement. There being no questions or statements from the public, the City Manager closed the Public Hearing.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to dispense with the actual reading of the agreement and to adopt the Ordinance as follows:

CITY OF MARION
ORDINANCE

AN ORDINANCE GRANTING A GAS FRANCHISE TO PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, ITS SUCCESSORS
AND ASSIGNS, FOR THE CITY OF MARION, NORTH CAROLINA, FOR A PERIOD OF THIRTY (30) YEARS

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

SECTION 1. Definitions.

Whenever and wherever used in this Ordinance the following words and names shall have the following respective meanings:

(a) **CITY COUNCIL** shall mean the City Council of the City of Marion, North Carolina, as now or hereafter constituted.

(b) **COMPANY** shall mean Public Service Company of North Carolina, Incorporated, its successors and assigns.

(c) **CITY** shall mean the City of Marion, North Carolina, including its present and future City limits.

(d) **DEPARTMENT OF TRANSPORTATION** shall mean the North Carolina Department of Transportation or its successors.

(e) **GAS** shall mean natural gas, mixed gas and substitute fuels carried over the Company's facilities as authorized by the North Carolina Utilities Commission.

(f) **GAS SYSTEM** shall mean all facilities of the Company in the City used for the transmission or distribution of Gas within the City.

(g) **COMMISSION** shall mean the North Carolina Utilities Commission or any successor body lawfully constituted.

(h) **FERC** shall mean the Federal Energy Regulatory Commission or its successor.

(i) **PUBLIC WAY OR WAYS** shall mean any public street, avenue, road, alley, lane, bridge or other public right-of-way within the City over which the City as of the applicable time has jurisdiction or exercises control.

SECTION 2. GRANT OF AUTHORITY.

The City hereby grants to the Company the right and privilege to construct, operate and maintain a gas utility system within the City for the transmission, distribution and sale of Gas to customers or users of the Company. The Company shall have the right, authority and privilege to construct, install, operate, maintain, lay, re-lay, renew, replace and repair gas pipes, mains, pipelines and necessary appurtenances thereto in, through, across, along and under the Public Ways within the City for the pumping, handling, transmission, distribution and sale of Gas for any and all purposes, and for such objects and purposes to take up the pavement in Public Ways, and to make such excavation and changes therein as may be necessary therefor.

SECTION 3. NONEXCLUSIVE GRANT.

This franchise is not exclusive. The City may grant the same or similar rights and privileges to other persons at any time, provided that any such grants shall be made under terms and conditions which do not materially impair the exercise of the rights and privileges granted to the Company under this franchise.

SECTION 4. FRANCHISE NOT WAIVER OF LAW.

This franchise is not a waiver of any present or future law or regulation. This franchise is not a limitation upon the authority of the City to adopt any law or regulation.

SECTION 5. CONFLICT WITH OTHER REGULATIONS.

In the event any provision of this franchise is in conflict with any rule of the Commission or FERC, so that the Company cannot reasonably comply both with the provisions of this franchise and any rule of the Commission or FERC, then the Company shall comply with such Commission or FERC rule instead of the conflicting provision of this franchise, unless the Commission or FERC, if requested to do so, agrees to waive the conflict, in which case the franchise shall control.

SECTION 6. SERVICE STANDARDS.

(a) The Company shall maintain and operate its Gas System in a reasonably efficient manner in order to supply adequate gas service to its customers in the City.

(b) The Company shall comply with all applicable ordinances and regulations of the City not in conflict with the rules of the Commission of FERC or with this franchise.

(c) In the event of any interruption or impairment of service or failure of supply of Gas by reasons of force majeure, act of God, strike, breakdown, accident or other happening beyond the reasonable control of the Company, the Company shall use due diligence to restore such service within a reasonable time. Such interruption or failure shall not constitute a breach of this Ordinance, unless the Company has failed to use due diligence, or service is not restored within a reasonable time, in which case the City may declare a breach to have occurred.

SECTION 7. CONDITIONS ON USE OF PUBLIC WAYS.

(a) The Company shall construct, operate and maintain its Gas System so as to cause the minimum reasonable interference with the public use of any Public Ways, or with any abutting property owner's access thereto.

(b) The Company shall place the gas mains and pipes of its Gas System in the Public Ways at such location as the City may prescribe. The Company shall construct and locate its gas mains and pipes so as not to interfere with existing sewer or water connections or sewer lines or water mains. The Company will take reasonable steps necessary to protect the facilities of the City and other utilities during the work.

(c) The Company shall coordinate with other utilities which use the Public Way. Upon request of the City, the Company shall provide information identifying the location of Company facilities.

SECTION 8. EXCAVATION IN PUBLIC WAYS; RESTORATION; DAMAGE.

(a) Whenever the Company excavates in any of the Public Ways pursuant to this franchise, such excavation shall be made by the Company in compliance with the laws and regulations of the City in effect at the time.

(b) Upon installation by the Company of gas mains or pipes, the Company shall, without delay, refill the trenches in which the mains and pipes are located according to standards established by the City. The Company shall promptly restore and replace the pavement, sidewalk, curbs or gutters in any Public Way destroyed, disturbed or damaged by such work, in as good or better condition than before the excavation took place.

SECTION 9. INSPECTION.

The City shall have the right to inspect all construction and installation work performed by the Company pursuant to this Ordinance and to make such other inspections as it shall deem necessary to ensure compliance with this Ordinance by the Company.

SECTION 10. INDEMNIFICATION'S.

The Company shall indemnify and hold harmless the City, its officers and employees from any cost, expenses, claims, judgments, suits or demands resulting or arising from the action or inaction of the Company in constructing, operating or maintaining its Gas System, in carrying on the business of selling, transmitting or distributing Gas, or in exercising or failing to exercise any right or privilege granted by this Ordinance, save and except for any such losses, costs, expenses, claims, judgments, suits or demands resulting or in any manner proximately caused by the negligent action or inaction of the city or any of its officers, agents or employees. The Company's obligation to indemnify the City and such persons at any time is conditioned, however, on the City having notified the Company in writing of any such claim, demand or suit in sufficient time to give the Company reasonable opportunity to resolve or defend the same on behalf of the City. In the event of such notification, the Company shall have the sole and full responsibility for the resolution and defense of any such claim, demand or suit on behalf of the City, and the City shall cooperate fully with the Company in any such undertaking. If, after proper notification, the Company fails to undertake any such responsibility, the City shall have the right to resolve or defend any such claim, demand or suit at the expense of the Company.

SECTION 11. RULES AND REGULATIONS.

The Company may from time to time declare, make and enforce such rules and regulations as shall have been fixed or allowed by the Commission as to the sale or distribution of Gas to any of its customers in the City.

SECTION 12. RATES.

The rates to be charged for Gas at all times shall be such rates as are fixed or allowed by the Commission, including such rates as shall be negotiated by the Company with certain industrial or commercial customers pursuant to authority granted by the Commission.

SECTION 13. PLAT OF GAS SYSTEM.

The Company shall maintain maps or plats of its Gas System within the area covered by this franchise. Such maps or plats shall be maintained in the Company's Offices, and the City shall have a duplicate copy of these maps.

SECTION 14. BANKRUPTCY.

In the event (a) the Company is adjudged bankrupt or (b) its assets are placed in the hands of a receiver or other court officer, either voluntarily or involuntarily, or (c) the Company reorganizes, merges or consolidates with any other Company, or (d) the properties and business of the Company are foreclosed or sold to satisfy any lien or indebtedness or obligation of the Company, then the interest, rights and remedies of the City in respect to said properties and operations shall not be affected or prejudiced, and any receiver, assignee, trustee, purchaser or successor, whether by operation of law or otherwise, so succeeding to or representing the interest or position of the Company, shall be bound by this Ordinance and the terms and provisions hereof and shall be bound to carry out and perform the obligations and duties imposed upon the Company by this Ordinance.

SECTION 15. REVOCATION.

In the Event the Company violates or fails to perform any of the provisions of this Ordinance and within sixty days after receipt of written notice of the same from the City has failed to cure or remedy, or to have begun reasonable steps to cure or remedy, any such violation, failure or default, then the City Council may give at least thirty (30) days written notice to the Company specifying the violation or failure constituting the grounds for revocation and notifying the Company to appear at a hearing before the City Council to show cause why this franchise should not be revoked. If at such hearing the City Council should determine that the Company's violation, failure or default has been substantial, repeated or flagrant, then upon such determination the City Council may revoke and terminate this franchise; provided, however, that the Company may file with the City within ten (10) days after any such determination the Company's election to appeal such determination to the proper North Carolina court, and in that event the City and Company agrees that such court shall hear and determine de novo whether there has been a substantial, repeated or flagrant violation, failure or default by the Company of the terms, conditions or obligations of this Ordinance. A violation or default which cannot be cured by the Company shall not be grounds for revocation and termination, unless such violation or default shall be determined to be material and continuing.

SECTION 16. SEVERABILITY.

Should any court of competent jurisdiction declare any part, term or provision of this Ordinance illegal, unauthorized or in conflict with any law of the United States or the State of North Carolina, or to be in conflict with any valid rule or regulation duly promulgated by any agency or regulatory body of the United States or the State of North Carolina, the remaining portions or provisions of this Ordinance shall not be affected thereby.

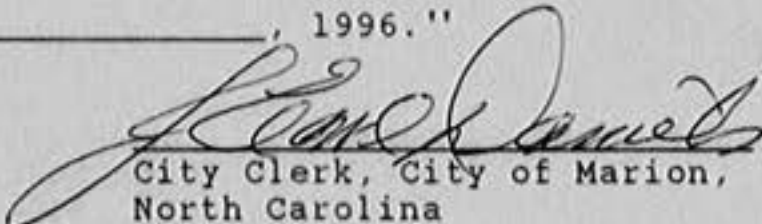
SECTION 17. CERTIFIED COPY TO COMPANY.

The City Clerk shall deliver to the Company an executed or conformed copy of this Ordinance and the Company's written acceptance thereof, certified as follows:

"Certified to be a true and exact copy of an ordinance Duly adopted by the City Council of the City of Marion, North Carolina, on the _____ day of _____, 1996, and the acceptance thereof by Public Service Company of North Carolina, Incorporated.

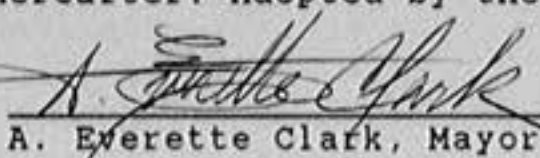
The _____ day of _____, 1996."

(City Seal)

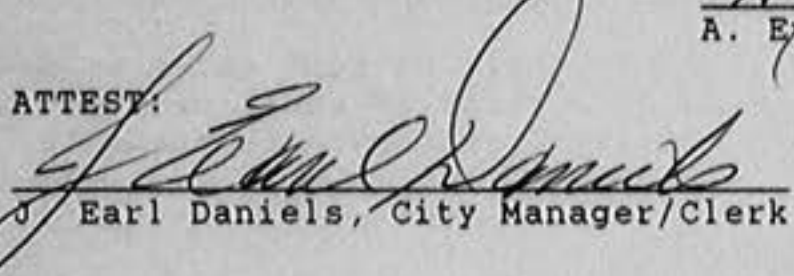

City Clerk, City of Marion,
North Carolina

SECTION 18. EFFECTIVE DATE: ACCEPTANCE BY COMPANY: TERM.

This Ordinance shall be effective from and after the _____ day of _____, 1996, provided the Company shall have executed the written acceptance hereof at the end of this Ordinance, and shall exist and continue for a period of thirty (30) years hereafter. Adopted by the City Council the _____ day of _____, 1996.


A. Everette Clark, Mayor

ATTEST:


Earl Daniels, City Manager/Clerk

APPROVED AS TO FORM

City Attorney

PUBLIC HEARING - MARION ZONING ORDINANCE - AMENDMENTS: The City Manager opened the Public Hearing. The City Manager asked if there was any one present who wished to address Council concerning the proposed Amendments.

Councilman Edwards asked several questions pertaining to the proposed amendment for the definition of Family. The proposed definition would read as follows:

FAMILY - One (1) or more persons occupying a single family dwelling unit who are related by blood or marriage or adoption. A maximum of five (5) persons, not related by blood or marriage or adoption, may occupy a single family dwelling unit. Domestic servants employed or living on the premises may be housed on the premises without being counted as part of the family. The maximum permissible number of five (5) unrelated persons who may lawfully occupy a single family dwelling unit shall not apply to any group occupying a boarding/rooming house or a fraternity house.

A discussion followed.

Councilman Edwards asked if blood related or related by marriage would include first, second, and third cousins, etc.?

The Public Hearing was closed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to refer this proposed amendment back to the Planning Board for further investigation into the extent of how far to accept blood relations and/or relations by marriage.

PUBLIC HEARING - CDBG APPLICATION SCATTERED HOUSING REHAB: The City Manager opened the Public Hearing. The City Manager asked if there was any one present who wished to address Council concerning the City of Marion submitting a Community Development Block Grant (CDBG) application in the Community Revitalization, Scattered Site Category.

The City Manager advised that the CDBG for \$384,417 will provide funding to rehabilitate sixteen (16) severe homes belonging to low and moderate income citizens within the City Limits.

There were no questions or comments.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to proceed with the application.

IPDC - AGREEMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the agreement between the City of Marion and Isothermal Planning and Development Commission for the provision of Grant Management Assistance.

The Agreement can be found on file at City Hall as Legal Document Number 6 .

MARION THOROUGHFARE PLAN - MS. LETA HUNTSINGER: Ms. Leta Huntsinger was present for this meeting to update Mayor Clark and City Council on the Marion Thoroughfare Plan.

MR. LOFTIS - REQUEST TO WAIVE LATE PENALTIES AND ALLOW PARTIAL PAYMENTS: The City Manager presented a request from Ms. Loftis that the city waive the late penalties and allow partial payments on their water bill, since her husband is now unemployed due to the closing of Decotech.

She had explained to the Manager that her husbands unemployment check may not be received in time to prevent having to pay the late penalty. The City Manager explained that several hundred persons are now unemployed because of the closing of Decotech and that waiving the penalties and allowing partial payments on water bills would set a bad precedence and require similar action for all persons becoming unemployed. He informed Council that part of the bill had been paid and the total amount needed was about seventeen dollars. The City Manager advised that he would gladly loan the money for the payment rather than such a precedence being set. He continued by stating that the City will be loosing \$15,000 per month in water and sewer revenues because of the closing of Decotech. The City Manager informed Council that City employees refer persons to Social Services, the Corpening Foundation, local Churches and even pay some water bills out of their own pockets.

Councilman Edwards asked if the Loftis usually paid their bills on time. The City Manager said they were good customers and usually paid their bills when due. Councilman Edwards stated that the policy should not be changed but the city should offer some courtesy since they had paid half their bill and were requesting help before the cut off date. He stated that in his opinion that is why the Council is elected and that is to deal with individual issues when necessary. Councilman Edwards made a motion that the City waive the penalties for the September bill and allow the partial payment with the understanding that the bill for September and October must be paid in full by the 25th of October. This motion was seconded by Councilman Owenby with all Councilmen voting in favor.

MS. SHIRLEY WARD - KUDZU - TREE - COMPLAINTS: The City Manager presented Council with a letter he had received from Ms. Shirley Ward, of Rutherfordton Road, stating that the City has a copy of a deed that she feels proves liability and ownership of property by the City of Marion. She also feels that kudzu and fallen trees have created a hazard, and that the City has an obligation to remove the kudzu and the fallen tree from this property.

The City Manager also presented Council with a letter from City Attorney Penn Dameron advising that even if the proposed street was dedicated to the City, and the City proposed to accept such dedication, and to grade, pave, and maintain a street there at some undetermined future time, the City would have no obligation to maintain the area now. "A municipality is not required to convert immediately to use for travel all portions of land acquired by it for a street, and non-user or temporary user of a portion of the street for other purposes, not inconsistent with its later conversion for travel when future traffic conditions should so require, does not constitute an abandonment of such portion for street purposes, nor a dedication for such temporary purposes." This is especially so since the City of Marion had never maintained this area in the approximately sixty (60) years since it was described as an easement.

Council instructed the City Manager to mail Ms. Ward a copy of the letter from the City Attorney.

PROPOSED EMPLOYEE TRAVEL EXPENSE POLICY: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Employee Travel Expense Policy.

EMPLOYEE TRAVEL EXPENSE POLICY

It shall be the policy of the City of Marion to authorize employees, upon approval of the City Manager, to attend schools, seminars, conferences, classes, and courses for periods of time up to a maximum of one week. Periods longer than one week will require approval of Council.

The City will pay the employees expenses as follows:

	<u>IN STATE</u>	<u>OUT OF STATE</u>
Registration:	Total Fee	Total Fee
Mileage:		
City Vehicle	0	
Private Vehicle by Choice	\$.12 per mile	\$.12 per mile
Private Vehicle Required	\$.24 per mile	\$.24 per mile
Meals:		
Breakfast	\$ 5.00 each	\$ 7.00 each
Lunch	\$ 7.00 each	\$10.00 each
Dinner	\$10.00 each	\$20.00 each
Lodging:	Actual Charges	Actual Charges
Taxi/Bus Fares:(if needed)	\$ 5.00 per day	\$10.00 per day
Gratuities:	\$ 3.00 per day	\$ 6.00 per day

Registration: The City will pay the total registration fee for the city employee. The City will not pay any fees for spouses and/or children.

Mileage: The City will furnish a city vehicle whenever possible and reimburse the employee for any gas or oil paid for by the employee. Should the employee choose to take their spouse and/or children, the employee will not be allowed to drive a city vehicle. If a city vehicle is available and the employee chooses to drive their private vehicle, the city will pay the employee \$.12 per mile. If a city vehicle is not available and the employee is required to drive their private vehicle, the city will pay the employee \$.24 per mile.

Meals: The City will not pay for Breakfast on the day of departure or Dinner on the day of return. Should the employee take leave and depart earlier than necessary or stay longer than necessary, the employee will be responsible to pay for those meals. Should the employee wish to attend special functions or dinners costing more than provided by the city, the employee will be required to pay the difference between the amount the city pays and the actual charges. The City will not pay for meals for spouses and/or children of employees.

Lodging: The City will pay for the total cost for lodging for the employee only. Additional charges for spouse and/or children must be paid by the employee. If the employee must leave home earlier than 7:00 A.M. to arrive on time for the event, the City will pay for lodging the night before. Should the employee not be able to return home by 7:00 P.M., following the event, the City will pay for lodging that night. The City will not pay for lodgings for earlier arrivals or later departures.

Taxi/Bus Fares: Should the employee be required to use a taxi or bus service, the City will pay the rate set out above.

Gratuities: The City will pay the amount set out above.

Any other requests for payments or reimbursements shall be determined by the City Manager.

Adopted this the 3rd day of September, 1996.

SURPLUS ITEMS: AUCTION OR ADVERTISE: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted four to one, with Councilman Owenby being the no vote, to sign with Mr. Gilbert Hollifield to hold a joint Auction with McDowell County and the School System.

Surplus items available for this years Auction are as follows:

Public Works Department

1979 - Kabota Tractor
 1976 - Lerol - Air Compressor
 (1) - 8hp Briggs Engine
 (1) - 7hp Briggs Engine
 (1) - 10hp Briggs Engine
 (1) - 5hp - Honda Engine

Miscellaneous Items:

Various Weedeater/Lawnmower Parts
 (1) - Amdek Computer System
 (1) - Computer Monitor

Police Department

Belt Buckle - Zebco Fishing 1988
 Pocket Watch - Westcolx, Silver in Color, face Broke
 Knife - Large 9 1/2" Blade, Wooden Handle in Black Case
 Knife - Hunting, 4" Blade Black Plastic Handle in Black Plastic Case, Parker Cut Co.

Knife - Hunting 5 1/2" Blade Brown Plastic Bone look handle, brown leather look case
 Knife - Hunting, 6" Blade, Tan Wood Handle, "J. Martliini Tinland Island Ground Stainless"
 Knife - Hunting, 5" Blade, Silver and Stone handle in brown leather case
 Knife - Pocket 4" Blade, Large Uncle Henry
 Knife - Pocket 3" Blade
 B.B. Guns - Qty 3, Pistols
 B.B. Guns - Qty 2, Rifles
 Holster, Brown Leather, for small cal. long hand gun
 Wrist Watch - Pulsar
 Vehicle - Black 1983 Camaro
 Military Surplus Trailer with 2 mounted electric generators

CLOSED SESSION: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, the City Council voted to go into Closed Session to meet with the City Attorney to discuss two legal matters:

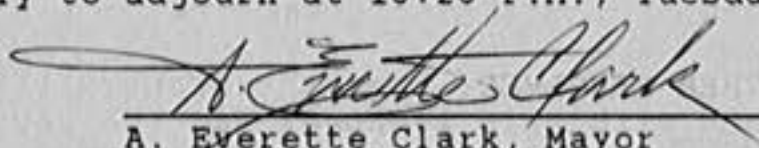
- 1 Clearwell
- 2 Cross Mill Bankruptcy

Clearwell: The City sent a letter to Hickory Construction Company advising that unless Hickory Construction Company provided an extended warranty for a period of twenty years, the City would keep the balance due and request an additional \$25,000 from Hickory Construction to cover anticipated future repairs to the Clearwell. Hickory Construction Company sent a letter to McGill Associates demanding payment by a certain date and also adding interest for the delay in payment. City Attorney Charles Burgin reviewed the matter with Council and outlined the City's options. It was generally agreed that taking the matter through the Court System would just increase costs for all parties concerned and that the matter should be resolved, if possible, through other means. Mr. Burgin advised Council that the parties are bound by the conditions outlined in the contractual agreements. A discussion was held concerning mediation and arbitration. It was agreed that the City Attorney and the City Manager would meet with Gary McGill to discuss the matter in detail, review the options available through the contractual agreements and determine if a satisfactory settlement can be made through negotiations with the parties involved.

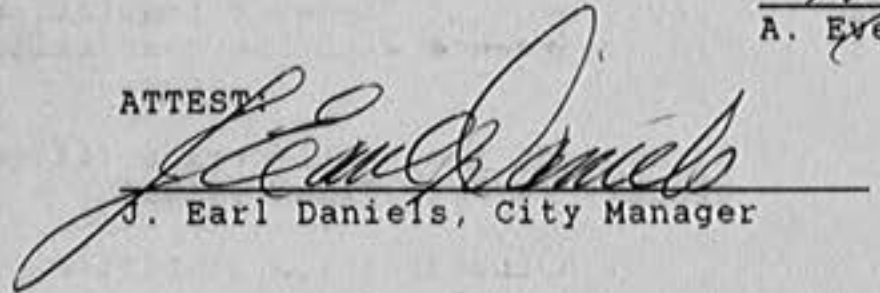
Cross Mills Bankruptcy: A letter from Attorney Charles E. McCartney, Jr. was discussed. Mr. McCartney is working for both McDowell County and the City of Marion regarding the Cross Mills Bankruptcy. The letter advised that a settlement of \$85,596.00 is being offered. The total due at that time, including taxes and interest, was listed at \$226,433.00. The City Manager stated that he did not know what the City presently owes Attorney McCartney as the City's share in the cost for services, said cost being divided between the County and the City. Following a short discussion, Attorney Charles Burgin informed Council that he would write Attorney McCartney and inquire about the cost to the City if the case has to be tried before a bankruptcy Judge and Attorney McCartney's opinion of the City's chance of winning the litigation if it is tried.

Upon a motion by Councilman Little, Seconded by Councilman Cuthbertson, the City Council voted to return to regular session.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adjourn at 10:20 P.M., Tuesday, September 17, 1996.


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, October 8, 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.

Mayor Clark was absent from this meeting due to being out of State on Vacation.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Aaron Adams, Street Superintendent; Ron Evans, Building Inspector; Lovina Smith, Planning Administrator; Roger Cable, Sanitation; Freddie Killough, DBA; Jennifer Waston, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM; Tom Wilson, News Reporter, WDLF; Don Dillingham, News Reporter, The Independent.

GUESTS PRESENT: Jim Edwards, IPDC, Rutherfordton, N.C.; Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Chinetta Wilkerson and Cornelius Hamilton, 209 Mitchell Street, Marion, N.C. 28752; Terry Smith, Designer Hardwood, Marion, N.C. 28752; Jackson Long, Marion, N.C. 28752; Robert Dunn, MEDA, Marion, N.C. 28752; State Representative, Robert Hunter, Marion, N.C. 28752; Chuck Abernathy, County Manager, Marion, N.C. 28752; Jerry Hunter, County Commissioner, Marion, N.C. 28752; Annie Lee Epley, County Commissioner, Marion, N.C. 28752; Rod Birdsong, Chamber of Commerce, 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 September 17, 1996 Meeting.

DESIGNER HARDWOODS, INC. - RESOLUTION REQUESTING GRANT FUNDS FOR WATER/SEWER SERVICE: Mr. Terry Smith appeared before Council regarding the extension of Water and Sewer Lines to serve a new industry locating on N. C. 226 South, Designer Hardwoods, Inc. Mr. Smith advised that the estimated costs, for the line extensions, run approximately \$50,000.00. He asked that the City provide the 25% matching funds required up front and that he would reimburse the City over a period of three years for all out of pocket expenses.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, Council voted unanimously to approve the following Resolution:

RESOLUTION
CITY OF MARION

BE IT RESOLVED, that a grant from the North Carolina Department of Commerce be made to the City of Marion to extend water and wastewater utilities for the benefit of Designer Hardwoods, Inc., which plans to construct and operate a manufacturing facility in McDowell County, North Carolina.

BE IT FURTHER RESOLVED, that the City of Marion, through the Office of the City Manager, will administer this grant in accordance with the rules and regulations of the Department of Commerce.

BE IT FURTHER RESOLVED, that the grant will be monitored quarterly to assure compliance with this proposal and the Department of Commerce regulations. Also, creation of new jobs will be monitored in accordance with the regulations of the Department of Commerce.

BE IT FURTHER RESOLVED, that Designer Hardwoods, Inc. will create fifteen (15) new jobs in a period of two years from January 1997 to January 1999.

BE IT FURTHER RESOLVED, that in accordance with the creation of fifteen (15) jobs, the amount of the grant application will be \$50,000.

ADOPTED this 8th day of October, 1996.


Stephen R. Little, Mayor Pro Tem

ATTEST:

J. Earl Daniels, City Manager

RESOLUTION NUMBER: R-96-10-08-1

DBA MUNICIPAL SERVICE DISTRICT - REVIEW: The City Manager advised that he had been asked by Council to place The DBA Municipal Service District on one of the September Agenda's for discussion. The City Manager apologized for this item not being on the Agenda last month but was delayed due to several Public Hearings and lengthy Agenda's.

A discussion followed concerning enlarging the District.

Council agreed to place this item on the Agenda to discuss at the City Council's Annual Planning Session in January 1997.

REPRESENTATIVE ROBERT HUNTER: Representative Robert Hunter was present during the City Council Meeting, due to another meeting he was attending at City Hall.

He ask for the opportunity to advise Council that he had received notice that the money for a turn lane at the intersection of Sugar Hill Road and Stroud Street had been approved.

CLEARWELL - REPORT - MCGILL ASSOCIATES: Mr. Danny Bridges, representing McGill Associates, appeared before Council and presented a copy of a letter sent to Hickory Construction Company regarding cracks that are beginning to appear in the Sto material that was placed over the crack repair areas. A portion of the letter read as follows: "An on site visit during the week of September 23, 1996 revealed several areas where the Sto material was cracking and allowing water to penetrate under the Sto material. Our primary concern with this condition is that water will continue to penetrate the Sto product during the winter months will freeze and thaw. This condition will likely result in the Sto material cracking and flaking off, thus exposing the repaired areas to potential damage through UV exposure and other negative weather related impacts." Mr. Bridges explained that there are four acceptable repair methods:

1. Mameco's Vulkem 350/351
2. CIM with Top Coat Epoxy
3. 3M Scotch Clad
4. JPS Elastomerics Hi Tuff 060 system

Mr. Bridges advised that three of the methods require the materials be sprayed, rolled on or put on with a squeegee. He stated that using these materials some areas may be covered in thinner layers than others. It was recommended that the City consider the JPS Elastomerics Hi Tuff 060 System, which is a manufactured sheet or roll and is the same thickness throughout. This system is an ethyl propylene liner that comes in 6' wide sheets that are heat welded together and applied to the surface of the concrete with adhesive. The overlapping ends extend over the walls and are fastened with pressure bars to the side of the top slab. The liner is 60- mils thick and is quoted as being non conducive to blistering due to vapor release by the concrete. In addition, this system was quoted as the lowest cost. The estimated costs being just under \$36,000.00.

NEAL HAMILTON - REQUEST FOR REIMBURSEMENT FOR LOCATING MOBILE HOME: Mr. Cornelius Hamilton advised Council he had worked with Mr. Ron Evans, Building Inspector, and Ms. Lovina Smith, Planning Administrator, on locating his mobile home on Mitchell Street. He is requesting reimbursement from the City to re-locate his mobile home.

Mr. Hamilton informed Council that the lot was graded and the mobile home placed as directed by Building Inspector Ron Evans. He advised Council that it was later discovered that the mobile home was on the wrong lot.

The City Manager advised that the City of Marion is not responsible for locating properties only on placement of structures as required by the Marion Zoning Ordinance.

Ms. Smith advised that she got her information from the tax records from the County Tax Office.

Mr. Evans advised that in accordance with the information he received from Ms. Smith, he arrived at what he assumed was the property lines.

A discussion followed.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to reimburse Mr. Hamilton the amount quoted to Council including the cost for grading and relocating the utility pole, not to exceed \$2,750.00.

The quote from Accent Mobile Homes was as follows:

Tear House Down.....	\$ 800.00
Re-plumb House.....	\$ 220.00
Move Home.....	\$ 150.00
Electrical Hook-Up.....	\$ 600.00
New Underpinning.....	\$ 500.00
TOTAL	\$2270.00

Plus Relocating Power Pole
and Grading Cost

BOBBY PAINTER - REQUEST FOR REIMBURSEMENT - ITEMS PICKED UP BY SANITATION DEPARTMENT: The City Manager presented Council with a letter from Mr. Bobby Painter, a City Employee, including a list of items and their cost. Mr. Painter advised that a City Employee picked up a trash bag from Mr. Painter's porch. This trash bag actually contained clothing and various other items. Mr. Painter requested that the City of Marion reimburse him for the following items:

4 Sweaters.....	\$7.00 each
3 Dresses.....	\$18.00 each
One Bath Set.....	\$14.00

One Man's Jacket.....\$24.00
 Various What Knots.....\$20.00
 2 Ladies Pant Suits... \$19.00
 Total.....\$178.00

Mr. Roger Cable was present for this meeting. He stated that he was the sanitation worker who picked up this bag. He asked if he would lose his job. The City Manager advised that he would not, however, the matter would be reported to the Public Works Director and he would determine what action, if any, that would be taken.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to reimburse Mr. Painter the amount of \$100.00.

JACK LONG - REQUEST FOR CITY TO MAINTAIN ALLEY-WAY: The City Manager advised that he had contacted the Street Committee prior to this meeting, to discuss a request being made by Mr. Jack Long for the City of Marion to Maintain an alley-way located between Catawba Street and Mitchell Street. The City Manager advised that the City had treated this alley-way as a private drive since it was annexed into the City because it basically served only one residence.

A discussion followed.

Councilman Martin said that he was concerned that the City had not maintained the alley-way in the past because the persons living in the residence had to maintain it at their expense. He stated that after giving consideration to the request, he determined that two wrongs do not make a right.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to place this alley-way on the City Street System and to maintain approximately two hundred and ten feet of this alley, from the existing paved street to the property line of Mr. Jack Long.

The City Manager recommended that the alley-way be named Burke Street.

Council decided to delay naming the street.

BIDS - 1980 STREET FLUSHER: The City Manager advised that sealed bids was accepted by the City of Marion Purchasing Agent until 3:00 P.M., Thursday, October 3, 1996 in the conference room at City Hall.

There was one bid received for the 1980 Ford Street Flusher Truck in the amount of \$5,500.00

Upon a motion by Councilman Owenby, seconded by Councilman Edwards, Council voted unanimously to accept the bid of \$5,500.00 from Mr. Paul Callaway of Mooresville, North Carolina.

RESOLUTION SUPPORTING STRICTER ENFORCEMENT OF STATE EROSION CONTROL REGULATIONS ALONG THE UPPER CATAWBA RIVER: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

JOINT RESOLUTION SUPPORTING STRICTER ENFORCEMENT OF STATE EROSION CONTROL REGULATIONS ALONG THE UPPER CATAWBA RIVER

WHEREAS, the Catawba River is the most significant natural and recreational resource in Alexander, Burke, Caldwell, Catawba and McDowell Counties; and

WHEREAS, the majority of citizens within this region rely on the Catawba River for their drinking water; and

WHEREAS, runoff from construction activities contribute sediment, bacteria, nutrients, metals and other pollutants to the Catawba River; and

WHEREAS, said pollutants carried in stormwater runoff endanger the ecological health of the Catawba River and threaten the health and quality of life of people living in these Counties; and

WHEREAS, problems involving runoff entering the Catawba River from land disturbing activities have increased in number and severity this summer; and

WHEREAS, stricter enforcement of existing state erosion control regulations would improve compliance with these regulations, thereby reducing the amount of pollutants entering the Catawba River and thus protecting the quality of this resource; and

WHEREAS, stricter enforcement of existing state erosion control regulations would force noncomplying parties to properly and expeditiously address situations where erosion control measures are inadequate in controlling runoff or where such measures have not been implemented,

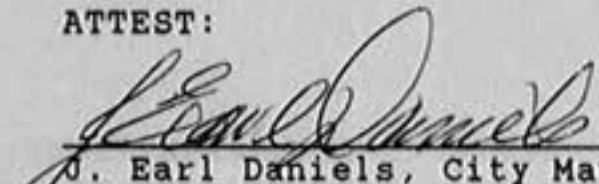
WHEREAS, the North Carolina Department of Environment, Health, and Natural Resources offices in Asheville and Mooresville are responsible for enforcing state erosion control regulations in these Counties; and

NOW, THEREFORE, BE IT RESOLVED THAT the City of Marion does support the stricter enforcement of state erosion control regulations by the North Carolina Department of Environment, Health and Natural Resources offices in Asheville and

Mooreville.


Stephen R. Little, Mayor Pro Tem

ATTEST:


J. Earl Daniels, City Manager

RESOLUTION NUMBER: R-96-10-8-2

JIM COOK - REQUEST FOR SIGNED DOCUMENT - DONATION OF LAND FOR CITY STREET: The City Manager informed Council that he had received a request from Mr. Jim Cook, that he sign a document acknowledging that Mr. Cook had donated a certain piece of property to the City for a public street. The property is located next to B & J Chevrolet. The property is now used as Westwood Chateau Drive. Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted unanimously to authorize the City Manager to sign the document.

COUNCILMAN COMMENTS:

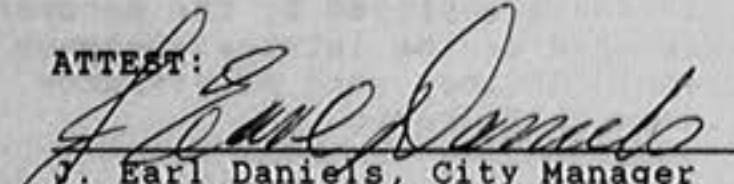
Councilman Edwards mentioned that the lights at the track at East Junior High are burned out again and ask the City Manager to place a phone call to the school.

Councilman Martin advised that he had received a phone call stating that a group of young people under the age of fifteen had been harassed by the Marion Police Department. The City Manager advised that the Police Chief had advised him of this situation and that Mr. Martin may wish to call the Police Chief for a full explanation.

ADJOURNMENT: Mayor Pro Tem Steve Little adjourned the meeting at 9:45 P.M.


Stephen R. Little, Mayor Pro Tem

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, October 22, 1996 at 7:00 P.M. in the Educational Building of the United Methodists Church in Cross Mill.

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; Johnny Patton, Marion Police Department; Lovina Smith, Planning Administrator; Woody Harton; Planning Coordinator, Asheville, N.C.; Dean Walker, Planning Board Member; Jennifer Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Tommy Wilson, News Reporter, WDLF Radio; Robert Swafford, News Reporter, The McDowell Independent.

GUESTS PRESENT: Amy Swafford, Route 3, Box 158 Nebo, N.C. 28761; Clyde Henline, 314 Summit Street, Marion, N.C. 28752; Dean Henline 311 Summit Street, Marion, N.C. 28752; Abdullalu Hassau 415 Tate Street, Marion, N.C. 28752; Debbie Patten, Oak Street, Marion, N.C. 28752; Tillie Twitty; Chinetta McQuire; and David Setzer, The McDowell News.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by councilman Little, those members of Council present voted to approve the minutes of the October 8, 1996 Meeting.

MARION ZONING ORDINANCE - PROPOSED AMENDMENTS: The City of Marion Planning Board met on Thursday, October 17, 1996 to reconsider their recommendations of September 12, 1996, concerning the amendment of the definition of "family:"

The Planning Board voted unanimously to resubmit their recommendation of September 12, 1996 to Council.

The recommendation was as follows:

(1) Amend the definition of "Family" to read as follows:

FAMILY One (1) or more persons occupying a single family dwelling unit who are related by blood or marriage or adoption. A maximum of five (5) persons, not related by blood or marriage or adoption, may occupy a single family dwelling unit. Domestic servants employed or living on the premises may be housed on the premises without being counted as part of the family. The maximum permissible number of five (5) unrelated persons who may lawfully occupy a single family dwelling unit shall not apply to any group occupying a boarding/rooming house or a fraternity house.

(2) Amend the definition of "Boarding House" to read as follows:

BOARDING HOUSE/ROOMING HOUSE A dwelling, wherefore compensation, lodging and/or meals are provided. The occupancy for such use of a dwelling unit shall not exceed more than one (1) person per two hundred (200) square feet of gross floor space. The dwelling unit shall not be occupied by more than six (6) persons, other than the owner and/or employees of the owner.

(3) Amend Section 400. Definitions to include the following definition:

DOMESTIC SERVANT An individual or individuals employed by the occupant of a dwelling unit, for wages reportable and reported to the Internal Revenue Service, to perform services such as household duties, yard maintenance, and the like on a regular (not less frequently than weekly) basis.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council Present voted to accept the recommendation of the Planning Board as presented above.

COUNCILMAN EDWARDS ARRIVED FOR THE MEETING AT 7:30 P.M. DURING THE DISCUSSION OF THE DISCUSSION OF THE PROPOSED CURFEW ORDINANCE.

JUVENILE CURFEW ORDINANCE - PROPOSED: The City Manager presented the following Proposed City Ordinance to Council:

Curfews for Minors

Purpose: To establish a curfew for minors in the City of Marion, thus assisting the parents and guardians of minors in the ever-increasingly difficult task of child rearing, and to promote the health, safety and welfare of both minors and adults in the City of Marion by creating an environment offering protection and security for all concerned.

Section I Definitions:

- A. **Public Place:** Areas such as, but not limited to, common areas of office buildings and apartments houses; schools; businesses, shops, and other areas open to all for common use; alleys, streets or public places or places of business and amusement; public vehicular areas, highways, and parks; and establishments open to the public for the conduct of business, including private business to which the public is invited.
- B. **Guardian:** One who legally has the care and management of the person of a child defined as a minor by this ordinance.
- C. **Minor:** A person who has not reached his sixteenth birthday and is not married, emancipated, or a member of the armed services of the United States.

Section II Curfew: A curfew applicable to minors is established and shall be enforced as follows:

- A. **Time Limits.** It is unlawful for any minor to be or remain upon any public place as defined in this ordinance in the City of Marion between midnight Friday and five o'clock a.m. on Saturday, or between midnight Saturday and five o'clock a.m. on Sunday, or between the hours of eleven o'clock p.m. and five o'clock a.m. of the following morning on Sunday, Monday, Tuesday, Wednesday or Thursday.
- B. **Exceptions.** The restrictions provided by Subsection 2.A shall not apply to any minor who is accompanied by a parent, guardian, or other person charged with the care and custody of such minor, or other person over eighteen (18) years of age who is accompanying such minor with the knowledge and consent of such parent or

guardian, nor shall the restriction apply to any minor who is using the most direct route to travel between his home and

- (1) employment;
- (2) church or church-sponsored function;
- (3) a function sponsored by a municipality, county, or other government; or
- (4) a function sponsored by a school or civic organization; or who is traveling in an emergency, which

is defined as a bone fide medical or family emergency in which the juvenile is required to seek, or to accompany person who is seeking, immediate medical treatment or emergency assistance from law enforcement, rescue, or public health and safety personnel; or who is traveling in interstate travel with the knowledge and consent of his parents or guardian.

C. Responsibility of Adults. It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon, or remain in or upon a public place within the City of Marion within the curfew hours set by Subsection 2.A, except as otherwise provided in Subsection 2.B.

D. Responsibility of Business Establishments. It is unlawful for any person, firm, or corporation operating a place of business or amusement to allow or permit any minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the curfew hours set by Subsection 2.A, except as otherwise provided in Subsection 2.B.

E. Enforcement.

(1) When a minor is found to be in violation of this ordinance the officer, will by telephone, check with the Records Center of the City of Marion Police Department to determine if the juvenile is a first offender. If the juvenile is a first offender, he/she will be taken to the residence of his/her parent or guardian. A written warning will be given to that adult and an information report taken by the officer to include the name of the juvenile and adult, and the time, date, and location of the offense. This report will be turned in to the Records Center and entered into the Police Department Computer System. A copy of the report will be forwarded to the Juvenile Officer of the police department.

(2) If, upon checking with the Records Center, the juvenile is found to be a repeat offender he/she will be taken to the residence of his/her parent or guardian and the adult will be subject to a criminal citation pursuant to subsection 2.F of this article. A report will be turned into the Records Center and entered into the Police Department Computer System. A copy of the report will be forwarded to the Juvenile Officer of the police department.

(3) If the juvenile is under twelve (12) years of age a report will be made and a copy forwarded to the McDowell County Department of Social Services.

F. Aiding and Abetting By Adult, Guardian or Parent. It shall be a violation of this ordinance for an adult, guardian or parent to allow, permit, encourage, aid or abet a minor in the violation of Subsection 2.A of the ordinance, except as otherwise provided in Subsection 2.B.

G. Refusal of Guardian or Parent to take Custody of a Minor. If any guardian or parent refuses to take custody of his/her minor child found in violation of this ordinance, the officers with custody of said minor shall contact the McDowell County Department of Social Services and release the minor to that agency for temporary placement in a foster home. The adult will be subject to a criminal citation pursuant to Subsection 2.F of this article.

H. Emergency Curfew. Under the authority of N.C.G.S. 14-288.12, whenever the Mayor of the City of Marion deems that an emergency exists, and there is a clear and present danger to the preservation of the public peace, health, life or safety or to public or private property in the City necessitating expansion (including but not limited to an expansion of the effective hours of the curfew and the ages of persons to whom the curfew applies) of the curfew provisions set forth in Subsection 2.A., the Mayor may effect such expansion effective for the period of the emergency by proclamation. The proclamation shall contain a statement of the reasons for such necessity, the period of the expanded curfew, and provide that no minor under the age of sixteen shall be upon or about or remain upon or about public places as defined by this ordinance in the City between the hours of 8:00 p.m. and 5:00 a.m. of the following morning unless accompanied by his parent, guardian or responsible adult. Said proclamation may further provide that no parent or guardian of any minor under the age of sixteen shall allow the child to be upon or about or remain upon or about public places as defined by this ordinance in City between the hours of 8:00 p.m. or 5:00 a.m. of the following morning unless the child is under direction or protection of some adult person with authority and consent of such parent or guardian for his/her being there. Said proclamation shall become effective thirty (30) minutes after being publicly announced by the Mayor for the said period or until rescinded by the Mayor or repealed by Council in the manner in which ordinances are repealed. As soon as is reasonably possible the proclamation shall be published and reported in the local media and posted publicly and conspicuously about the City of Marion.

I. Punishment. The punishment for violation of this ordinance shall be a fine of \$50.00 and/or imprisonment up to thirty (30) days.

J. Severability. In the event that any paragraph or provision of this ordinance shall be determined to be unconstitutional, such provision shall be deemed to be severed from the remainder of the ordinance, and all other terms and provisions of the ordinance shall remain in full force and effect.

A discussion followed.

Council tabled this proposed Ordinance to discuss at Council's Planning Session to be held in January 1997.

The City Manager asked that the News Media Run this Ordinance and maybe do some type of survey to see how the Public feels about this type of Ordinance.

CITY OF MARION FIRING RANGE - AGREEMENT FOR USE: The City Manager presented an agreement submitted by Bryan Wilson, Vice President, McDowell Technical Community College which authorized the use of the Marion Firing Range for Firearms Certification Training. Mayor Clark informed Council that the City had assisted in the construction of a Firing Range with McDowell County but on at least one occasion City Police Officers were unable to use the range for required training because the Firing Range was being used by someone else and the City ended up having to send Police Officers to Morganton for training. He advised that it was decided that the City should have its own range. He asked that consideration be given to charging for the use of the range, plus charges for any damages and the City having priority in the use of the range. The City Manager advised that he had not discussed the matter in great detail with Chief Pruett but that he was aware of the request and had not objected to the agreement. It was decided to table the matter for further study.

STREET NAME - ALLEY-WAY ACCEPTED FOR MAINTENANCE: Councilman Martin advised that as a member of the Street Committee he is recommending that this Alley located between Catawba Street and Mitchell Street be named Francis Drive.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to name the Street, recently accepted for maintenance by the City of Marion, Francis Drive.

ORDINANCE - SEWER RATES FOR PRIVATE WELLS - REQUEST ORDINANCE BE RESCINDED: The City Manager asked that Council give consideration to rescinding the Ordinance adopted September 3, 1996 entitled SEWER RATES FOR CUSTOMERS DISCHARGEING WASTE WATER FROM METERED PRIVATE WELLS. He advised that the proposed rate change had not been programed into the computer but could be in time for the November billing. He informed Council that with the closing of Decotech and the loss of approximately \$200,000.00 a year in revenues that it may be necessary for Council to consider changing the Water and Sewer Rates. He stated only four or five customers would be affected by the Ordinance adopted and that it may be better to consider incorporating all changes in one ordinance. Councilman Martin stated he had not heard anything about increasing water and sewer rates. Councilman Edwards said he had not heard anything either and that he would not support any increase in the rates. The City should cut its expenses. The City Manager said no one had been advised about any proposed change that he had hoped it would not be necessary. He advised that as Finance Director he was charged with the responsibility of balancing the City Budget. He informed Council that he had met with Department Heads and cut everything that can be cut this year but that the \$200,000.00 loss was not just for one year but from now on until new customers are added to cover the loss. He informed Council that the cuts already made and the surplus from prior years was sufficient to cover costs for this fiscal year, pending no problems. He advised that the Water and Sewer Budget this year contains \$150,000.00 in Sales Tax Revenues, which was required to balance the Budget before the Decotech closing. He stated that the vast majority of cuts being made are in the General Fund. He advised that the City incurred debt for a new clear well, new reservoir, and other improvements in the water and sewer systems primarily to provide service to the large users. He said several large users have gone out of business but the debt is still there and has to be paid.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously not to rescind the Ordinance adopted at the October 8, 1996 City Council Meeting

NEBO WATER STUDY - APPOINT TWO MEMBERS: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to appoint Councilman Lloyd Cuthbertson and City Manager J. Earl Daniels, to the Nebo Water Study Committee.

RESOLUTION - STATE ROAD AND CONSTRUCTION BONDS: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution:

CITY OF MARION

RESOLUTION

Whereas, quality education and an excellent highway system are key element in economic progress; and

Whereas, North Carolina's public schools are overcrowded and often dangerously outdated, and highways are badly congested, and in need of widening or paving to ensure safety; and

Whereas, with the road bonds, construction of highway projects across North Carolina can be accelerated, thereby reducing land and construction costs caused by inflation; and

Whereas, the road bonds will expedite completion of key segments of urban loops; links between rural and urban areas; and paving of secondary roads, benefiting economic development throughout the state, and

Whereas, the proposed school bonds will provide more equity between urban and rural school districts throughout the state; and

Whereas, the school bonds will decrease the reliance on local property taxes to fund school construction; and

Whereas, the school bonds will nearly double the rate of badly needed school construction in North Carolina; and


Whereas, use of the Highway and school bond funds will not require tax increases;

NOW, THEREFORE BE IT RESOLVED, that the City Council for the City of Marion, North Carolina, supports the passage of the State Road and School Construction Bonds on the ballot on November 5, 1996, and the members of this organization will work to secure their passage.

Adopted this the 22nd day of October, 1996.

ATTEST:


J. Earl Daniels, City Manager


A. Everett Clark, Mayor

Resolution Number: R-96-10-22-1

WATER & SEWER REQUEST TO WAIVE LATE FEE'S: The City Manager advised that a water customer had requested that the \$5.00 late penalty be waived on his water account because he did not receive his statement in the mail.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously not to waive this penalty.

REQUEST - KUDZU PROGRAM - DEAN HENLINE: Mr. Dean Henline advised Council that he had recently moved back to Summit Street and that there was three lots near his properties over grown with Kudzu.

A discussion followed.

Mr. Henline presented Council with information he had obtained from the Internet.

The City Manager advised that two City Employees had recently attended a school to become certified in spraying Chemicals. If these employees pass the exam, then the City would be licensed to spray the Kudzu located on Street right's of way and other public properties.

COMPLAINT - BILLING PROCEDURE - VESTA HATHAWAY: Ms. Vesta Hathaway of 505 Carson Street was present for this meeting and advised that her water bill has apparently been averaged for the past four months and that the meter is not being read.

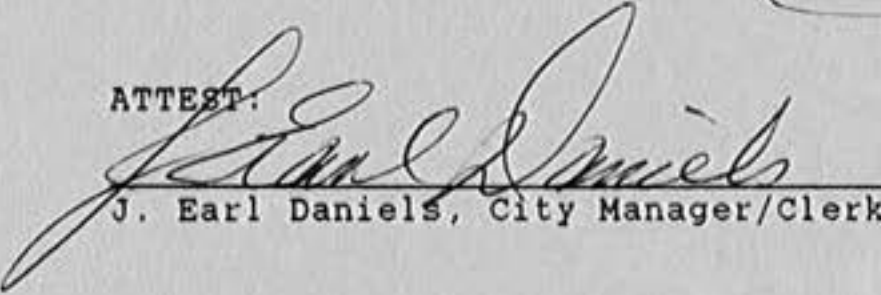
The City Manager advised that he would check into this matter and some one would get back with Ms. Hathaway.


COMPLAINT - ABDULLALU HASSAU: Mr. Hassau advised that he was having a similar problem as Ms. Hathaway with his water bill.

The City Manager advised that again it would be checked into and someone would get back with Mr. Hassau.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to adjourn at 9:20 P.M. on October 22 1996.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everett 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 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 Steve Little, Lloyd Cuthbertson, Mike Edwards, Billy Martin and Cecil Owenby.

OTHERS PRESENT: J. Earl Daniels, City Manager; Glen Sherlin, Public Works Director; Aaron Adams, Street Superintendent; Tom Pruett, Police Chief; Buck Byrd, Chief Water Filter Plant Operator; Freddie Killough, DBA; Bill Shaw, News Reporter, WDLF Radio; Robert Swafford, News Reporter, The McDowell Independent; Jennifer Watson, News Reporter, The McDowell News Paper.

GUESTS PRESENT: Garland B. Franklin, 234 Spring Street, Marion, N.C. 28752; Larry Horton, Rocky Pass, Marion, North Carolina 28752; Rick Bowman, R. Bowman Jewelers, Marion, N.C. 28752; Carolyn Gurley, R. Bowman Jewelers, Marion, N.C. 28752; Mr. & Mrs Ronald Leason, Landis Road, Marion, N.C. 28752; Mr. & Mrs. Jeremy Compton, 17 Gilkey Street, Marion N.C. 28752, BSA Troop 807; William Morgan, Route 1, Box 159 Marion, N.C. 28752; Catherine Barrett, Route 1, Box 161, Marion, N.C. 28752; Mr. & Mrs. Finley Morris, Route 1, Box 155, Marion, N.C. 28752; Bobby Austin, Route 1, Box 154, Marion, N.C. 28752; Mr. & Mrs. Fred Alexander, Route 1, Marion, N.C. 28752; Thomas and Tommy Brewer, Route 1, Box 153, Marion, N.C. 28752; Delores Warren, Route 1, Box 147, Marion, N.C. 28752; Kaye Cuthbertson, 201 Broad Street, Marion, N.C. 28752; Christine Mustin, Route 1, Box 231F Old Fort, North Carolina 28752; Terrell Finley, Route 1, Box 136, Marion, N.C. 28752; Sue Harman Route 1, Box 156, Marion, N.C. 28752; Mr. Lindsey, Yancey Street, Marion, N.C. 28752; Myles Brooks, Nebo, N.C. 28761.

APPROVAL OF MINUTES: Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, Council voted to approve the minutes of the October 22, 1996 Meeting.

CLOSING OUT SALE ORDINANCE - REQUEST TO ENFORCE STATE LAW:

The City Manager informed Council that he had received a request that the City enforce the State Closing Out Sales Statute. He advised that the City Ordinance follows generally the State Statute except the City Ordinance allows a 60 day period before the City requires a fifty dollar (\$50.00) fee, a penal bond and a complete inventory. He stated the Ordinance was adopted by Council at the request of the Chamber of Commerce a number of years earlier. The Council at that time felt that it was not appropriate to charge someone a fee, require a penal bond and a complete inventory of stock when they were going out of business. In order to keep someone from using a Closing Out Sale to attract more business, the Ordinance is enforced if the business is not closed in sixty days. He advised that one merchant is concerned that another merchant is going to create problems for his business if permitted to draw out his sale for 150 days (60 days plus 90 days under State Statute). The City Manager stated that since the State Statute is more stringent than the City Ordinance, the City has little choice but to enforce the State Statute. City Attorney Penn Dameron advised that the City does have some discretion in the matter. He advised that the City needs to follow the intent of the Statute but can waive the permit fee, the penal bond and inventory, unless it appears that the merchant is not operating within the intent of the law.

Councilman Little made a motion that the City waive the permit fee and not require the penal bond or inventory, at this time, and require that the business be closed out in ninety (90) days of first notification to the City. This motion was seconded by Councilman Cuthbertson and was unanimously carried.

RESOLUTION OF COOPERATION - MCDOWELL COUNTY - WATER LINE EXTENSION - LANDIS ROAD:

The City Manager informed Council that he and Public Works Director Glen Sherlin met with several residents of the Landis Road Area in the Conference Room at City Hall on Monday, September 16th concerning a request for a water line extension to serve residents of Landis Loop Road. He advised Council that he advised the group that the estimated costs for engineering, materials, and rock removal would be approximately \$30,000.00 and if the residents of the area would contribute these funds, he would recommend to Council that City forces be used to install the line and he would recommend that residents making a contribution be allowed to connect to the water line for \$200.00 for each residential connection. On Tuesday, September 24, he and Public Works Director Glen Sherlin met with a large group of residents of the Landis Loop Road in the Methodist Church Fellowship Hall on Baldwin Avenue. He informed Council that he again explained the estimated costs and advised that he would recommend to Council that City forces install the water line if the residents contributed sufficient funds to cover all other costs. He told the group that he would recommend that residents making a contribution be allowed to tap on the water line for \$200.00 but any not making a contribution would have to pay the regular fees charged at the time of connection. Ms. Finley Norris spoke to Council and told them that representatives of the group asked the County Commissioners to help pay for the costs because some of their wells may have been affected by the land-fill and the blasting for the sewer lift station for the prison. She said they may also have a problem because of the Waste Water Treatment Plant. She informed Council that the Commissioners agreed to pay up to the \$30,000.00 on behalf of the

residents. She advised that the City Manager told the group of residents that they would be able to connect to the system for \$200.00 but that they had received a letter stating that the residents would have to pay \$550.00. The City Manager advised that he could not recommend that the City connect the residents for \$200.00, since none of the residents had made a contribution toward the new water line. He said that at the time of the meeting no one had any idea that the County would make a contribution and it appeared that the residents may have to pay as much as \$1,000 to \$1,200 per residence since there were only about 24 residents and the need was for \$30,000. The City Manager said that he informed the group that he would recommend that any resident making a contribution be allowed to connect for \$200.00 and those not contributing pay the connection fee charged at the time of connection. The City Manager said that he could not in good faith recommend that these residents pay only \$200.00 when residents inside the City Limits have to pay \$350.00 for the same service. He stated that residents connecting to the water line to Nebo, which materials were paid by the County and School Board, have been required to pay \$1,100.00 until the Council reduced the connection fee to \$550.00 and some of them still owe more than \$200.00 now. Mr. Morgan spoke to Council and suggested that maybe a compromise could be made and the Landis Loop residents pay \$350.00 for the residential connection fee. A discussion followed. Mr. Miles Brooks spoke to Council and said that he had offered to pay \$2,000.00 to get the City water line extended to his property off the Nebo water line. He said he would up that amount to \$3,000.00 and pay the \$550.00 tap fee if the City would run that line. Councilman Edwards said it is a rough call. He stated that he understood what the Manager was saying but that it appears to him, that regardless of who is paying for the materials, the City is not having to pay. Councilman Cuthbertson said that he did not feel that persons outside the limits should pay less than persons inside. Councilman Edwards said he felt that residents of Landis Loop should be carved out as a special exception but not change the City policy. Following the discussion upon a motion by Councilman Owenby, seconded by Councilman Edwards, the City Council unanimously voted to require a \$200.00 residential connection fee, to be paid within 90 days of completion of the installation of the water line for all existing houses and houses under construction and one 3/4 inch tap at \$200.00 for Mr. Arnold Sparks for cattle water.

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

A RESOLUTION OF COOPERATION
BY THE COUNTY OF McDOWELL AND THE
CITY OF MARION TO PROVIDE FOR THE
EXTENSION OF WATER LINES TO THE
LANDIS ROAD AREA OF McDOWELL COUNTY

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

WHEREAS, the governing boards of the City of Marion and McDowell County recognize the value of extending utility water lines to the Landis Road Area of McDowell County; and

WHEREAS, the estimated cost of this water line extension is \$30,000 if the City of Marion installs the water lines with its own forces; and

WHEREAS, McDowell County has agreed to pay this amount utilizing a lease financing arrangement; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARDS OF THE CITY OF MARION AND THE COUNTY OF McDOWELL:

1. The City of Marion shall administer the project including the installation of water lines and related appurtenances, overseeing the inspection, and securing materials and services required for this project.
2. The County of McDowell shall pay the full cost of the materials and any required contracted services exclusive of the actual installation of the water lines made by the City of Marion. The City of Marion shall submit invoices for materials and services provided.
3. It is estimated that the cost of the materials and related services that will be made by McDowell County is \$30,000. McDowell County is responsible for the actual cost incurred for this extension exclusive of the installation of the water lines by the City of Marion.

4. McDowell County will own the installed water lines and appurtenances during the period of the installment contract until July 1, 2001 at which time it will convey its interest in all water lines and appurtenances in this project to the City of Marion.
5. The City of Marion shall at all times keep and maintain at its expense the water lines and all related appurtenances in a good state of repair and operation.

This Resolution is hereby approved the Board of Commissioners of the County of McDowell and by the City Council of Marion on the dates shown below.

Terry L. Smith, Chairman

A. Everette Clark, Mayor

Carrie Padgett
Clerk to the Board

J. Earl Daniels,
City Manager/City Clerk

November 4, 1996

November 5, 1996

Resolution Number: R-96-05-11-1

CLEAR WELL - REPORT FROM MCGILL ASSOCIATES: Gary McGill reported to Council that he had been working with Hickory Construction Company in trying to resolve the problem with the completion of the Clear Well. He advised that they were discussing some alternatives to the crack repairs, other than the installation of the 60 mil thick ethyl propylene (EP) membrane. Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, the City Council voted to accept only the 60 mil thick ethyl propylene (EP) membrane as recommended by the Engineer and upon a recommendation from the Engineer, following installation of the membrane, accept the project and pay Hickory Construction Company the balance due.

RIVERSIDE MOBILE HOME PARK - REQUEST FOR WATER SERVICE:

The City Manager presented a letter from Van Boyd and Joe Hall, owners of Riverside Mobile Home Park located on U.S. 70, just east of the Carson House. The letter advised that the owners would be will to pay for engineering fees for the extension of a City water main from the intersection of U. S. 70 and the Crane Resistoflex Road to the Riverside Park; fees to cross the Buck Creek Bridge on Highway 70 or to bury the water line under Buck Creek; one fire hydrant to city specifications to be placed near the entrance of the Park; and materials to extend the water line; if the city would accept two hundred dollars (\$200.00) per 3/4 inch water service for sixty (60) mobile home hook-ups plus the option to add thirty (30) more spaces in Phase II at two hundred dollar (\$200.00) each. It was agreed by Council that the City needs additional customers. Upon a motion by Councilman Owenby, seconded by Councilman Little, the City Council voted to accept the proposal provided the 60 meters are installed upon completion of the installation and the other 30 meters in Phase II installed within 24 months from the date the City completes the installation of the water line extension.

COMPLAINT - ALAN LINDSEY - 321 YANCY STREET: Mr. Lindsey informed Council that he has a real odor problem because of his neighbor's dog pen. Following a short discussion the Chief of Police was asked by Council to work with Mr. Lindsey and enforce City Ordinances to try and correct the problem.

WATER LINE EXTENSION POLICY OUTSIDE THE CITY LIMITS - PROPOSED: The City Manager asked that this item be held and presented at a later date. This was agreeable with Council.

CITY OF MARION FIRING RANGE - AGREEMENT FOR USE: This item was carried over from the last meeting. The City Manager presented a Memorandum from Police Chief Tom Pruett. The Memo stated that the Chief of Police did not wish to pursue the authorization for others to use the Marion Firing Range. Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council voted to table the matter.

RESOLUTION - RELEASE OF PLANNING FUNDS TO IPDC: Upon a motion by Councilman Little, seconded by Councilman Edwards, the City Council voted unanimously to approve the following Resolution:

RESOLUTION

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

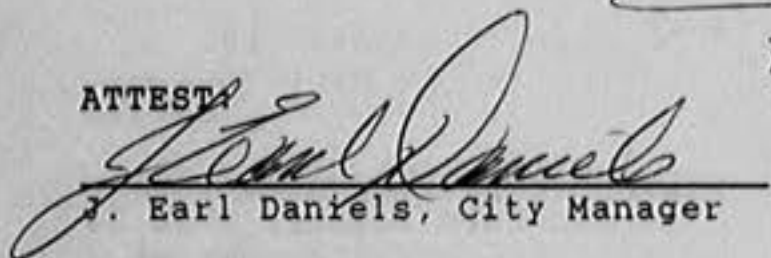
WHEREAS, in Region C, funds in the amount of \$48,015 will be used to assist local governments with state and federal grant applications in community and economic development, provide various support activities to industrial development in the region, develop and expand database essential to community 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, \$906.00, to the Isothermal Planning and Development Commission at the earliest possible time in accordance with the provisions of Chapter 324, House Bill 229 of the 1995 session.

Adopted this 5th day of November, 1996.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

R-96-05-11-2

FIREMEN'S RELIEF FUND - APPOINT COUNCIL MEMBER TO TWO YEAR TERM: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted to appoint Councilman Little to a two year term on the Marion Firemen's Relief Fund Board of Trustees, said term to expire on December 31, 1998. Councilman Edwards is presently serving a two year term which will expire on December 31, 1997.

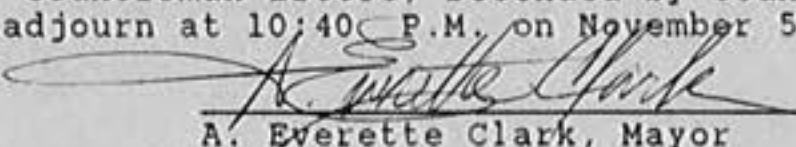
EXPRESSION OF APPRECIATION TO CERTAIN FIREMEN: The City Manager presented a Memorandum from Fire Chief Tom Milligan advising that Donald Anderson, Jimmy Morris and Bruce Edwards have volunteered many hours of their time during the past year to fill in for the three shift firemen for vacation, holidays, sick leave and other reasons when the shift firemen must be out. He advised that Jim Neal has also volunteered on some of these occasions. Chief Milligan recommended a gift of \$1,400.00 be given to Donald Anderson, Bruce Edwards and Jimmy Morris and a gift of \$800.00 be given to Jim Neal. Upon a motion by Councilman Little, seconded by Councilman Edwards, the Council voted unanimously to provide the gifts as requested by Chief Milligan.

EMPLOYEE LONGEVITY CHECKS/CHRISTMAS LUNCHEON/TURKEYS:

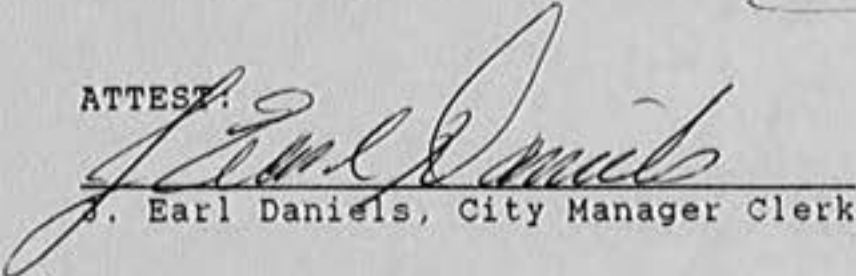
Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the Council voted unanimously to provide employee longevity checks as included in the Budget under City Policy, with employees receiving one days pay for each full year of continuous, uninterrupted employment up to five (5) years of service (five days pay) and employees having more than five years service receiving an additional one dollar (\$1.00) per month for each month of employment over five years. A discussion was held regarding giving each employee a turkey for Christmas. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the Council voted unanimously to provide each employee with a turkey for Christmas. The City Manager advised that the City would not be having a Christmas luncheon this year but would have a gathering of employees to meet with Council and have finger foods, coffee and soft drinks.

OIL SPILL - NORTH MUDDY CREEK: Councilman Edwards advised Council that he was concerned about the oil spill in the creek and all the dyes and other materials that have been found at different times in the creek. He asked that the EPA and the Division of Environmental Management be notified to investigate the matter and try and stop these materials from being discharged in the creek. Councilman Edwards also asked that the City express appreciation to McDowell County Emergency Management and all the volunteer Fire Departments that responded to the incident of the oil spill in the creek on Friday, October 25, 1996.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to adjourn at 10:40 P.M. on November 5, 1996.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, November 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 Steve Little, Mike Edwards, Billy Martin and Cecil Owenby.

Councilman Little arrived at 7:10 P.M. just as the discussion on the substance in Young's Fork of Muddy Creek was beginning.

BOARD MEMBER ABSENT: Councilman Lloyd Cuthbertson was out of State.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Tom Pruett, Police Chief; Jennifer Watson, News Reporter, the McDowell News; Robert Swafford, News Reporter, McDowell Independent; Bill Shaw, News Reporter, WMXF Radio and Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Marc Perez, 352 Hillside Drive; Garland Franklin, 234 Spring Street; Amy Swafford, Route 3, box 150, Nebo, N. C.; Dr. Christopher Eaddy, Attorney General's Office; Debbie Eaddy, Raleigh, N. C.; Eddie Smith; Ronnie Burgin; and John Stevens.

APPROVAL OF MINUTES: Upon a motion by Councilman Owenby, seconded by Councilman Edwards, those members of Council present voted to approve the minutes of the November 4, 1996 meeting.

RESOLUTION IN MEMORY OF FORMER COUNCILMAN JOE TYLER: The City Manager presented a Resolution in memory of Joe Tyler. He informed Council that he had spoken with Ms. Nancy Tyler about presenting the Resolution to her at the meeting. He advised that Ms. Tyler had a conflict on Tuesday nights and would be unable to attend. Upon a motion by Councilman Martin, seconded by Councilman Edwards, those members of Council present voted to approve the following Resolution:

RESOLUTION

IN MEMORY OF

FORMER

COUNCILMAN JOE TYLER

WHEREAS, death has taken from our midst Joe Tyler, who served the City of Marion faithfully and well as a City Councilman for 8 years; and

WHEREAS, Joe Tyler contributed materially over those years to the advancement of good municipal government; and

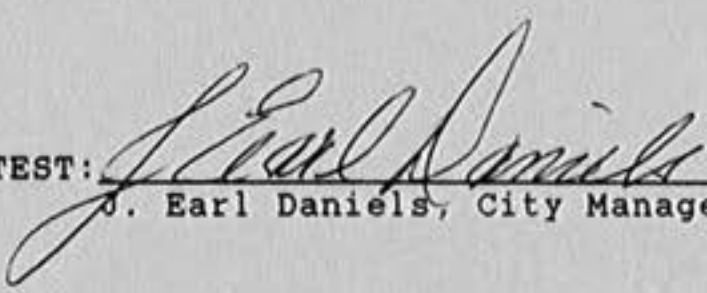
WHEREAS, Joe Tyler performed his duties as a member of the Marion City Council with dedication and integrity and contributed significantly to the success of programs to benefit the citizens of Marion.

NOW, THEREFORE, BE IT RESOLVED by the Marion City Council, assembled this 19th day of November 1996, that we do hereby express our sorrow at the passing of Joe Tyler, former City Councilman of the City of Marion, who made lasting contributions to good municipal government, and whose memory we are proud to honor.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the City of Marion, and that a copy be forwarded to the family of Joe Tyler.

Adopted this the 19th day of November, 1996.


A. Everette Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

SUBSTANCE IN YOUNG'S FORK OF NORTH MUDDY CREEK: The City Manager advised that at Councilman Edwards request, at the last City Council meeting, he had contacted the Department of Environment, Health and Natural Resources, Division of Water Quality about spills in Young's Fork of North Muddy Creek. He presented a letter from Mr. Roy Davis, Regional Supervisor of the Division of Water Quality concerning a request from the City for technical assistance. The City Manager informed Council that he had received a report that City forces were investigating a substance in the creek at approximately 7:30 A.M. this date. He advised that at approximately 12:20 P.M. they had located the source of the problem. He advised that the milky white substance getting into the creek was coming from Laird Packaging Incorporated. He informed Council that City employees placed a dye in the discharge from the industry and observed the flow from the industry into a sanitary manhole in Burgin Street. He advised that the dye also showed up in the storm drainage basin located on the north-west corner of West Henderson Street and Burgin Street. He told the Council that employees of the industry were unaware that the material was getting into the storm drainage system and the creek. He advised that City forces would be digging out the pipe on Wednesday November 20, to see if there is a cross connection between the sanitary sewer system and the storm drainage system or if some of the piping is broken. The City Manager introduced Mr. Roy Davis and Mr. Mike Parker to Council. Both gentlemen are employed by the Department of Environment, Health and Natural Resources, Division of Water Quality. Mr. Davis informed Council that their department had worked closely with the City regarding spills in the creek. He advised that City employees had done a very good job in locating and eliminating improper discharges. Councilman Edwards stated that the creek has run red, blue, green and many other colors over the past forty or so years, based on conversations he has had with some of the residents having homes near the creek. He said enough has not been done to resolve the problem. That someone needs to take some action to eliminate these substances from getting into the creek that he was concerned about dogs, birds and other animals that may be drinking out of the creek. He asked whose responsibility it was to enforce regulations on discharges to the creek. Mr. Davis advised that his department is responsible for enforcement. He added that personnel had been sent to Marion from their office in Asheville but that it takes approximately one hour to drive that distance and when they arrive the discharge has stopped. He stated that they cannot trace it if it has stopped. He advised that City forces are more familiar with the storm drainage and sanitary sewer system and the industries in the area. They are better able to locate the problem and they have done a good job. Councilman Edwards asked if they could not do a chemical analysis of the substances to determine where it is coming from. Mr. Davis advised that it would be very difficult to do because of the dilution by the creek water and other substances in the water. He added that the costs for such an analysis would be very expensive. Councilman Edwards insisted that not enough has been done to eliminate the problem. The City Manager pointed out that City forces have located and corrected two locations where substances were getting into the creek and that he was satisfied that when the one located on this date was corrected that it would solve that problem. He advised that anything discharged on a City street eventually ends up in the creek. He stated that soap used by young people having car washes, sand used on the streets during the winter, all eventually ends up in the creek, as does oil leaking from vehicles, antifreeze and other substances. He advised that when it rains or the City flushes streets for cleaning those materials end up in the creek. The City Manager advised Council that City forces would continue to respond to calls when some substance is seen in the creek and try locate the source and correct the problem.

MR. MARC D. PEREZ - REQUEST FOR CITY TO CLOSE A PUBLIC ALLEY-WAY: The City Manager presented a request from Mr. Marc Perez that the City close a 40 foot wide alley-way located at the end of Hillside Drive, running parallel with Monte Vista Avenue. The City Manager informed Mr. Perez that it has been City policy that the persons requesting that public roads be closed pay the entire costs involved in such closings. Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted unanimously to refer this matter to the Street Committee. The Street Committee will meet at 9 A.M., Wednesday, November 27, 1996 in the Conference Room at City Hall.

CITIZEN'S POLICE ACADEMY - CHIEF TOM PRUETT: Police Chief Tom Pruett introduced Dr. Christopher Eaddy, Director of the Safe Neighborhoods Initiative. Dr. Eaddy informed Council that he had been working in the West Marion area for several months, holding meetings with local residents and discussing Community Policing. He informed Council that he was very

impressed with Chief Pruett and his Department. He spoke to Council about CRIME AND POLICING IN RURAL AND SMALL-TOWN AMERICA. He talked with Council about the nature of a Citizen's Police Academy. Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted unanimously to allow Chief Pruett to develop a proposal to provide for a Citizen's Police Academy.

MARION MANUFACTURING CREDIT UNION - REQUEST LETTERS OF SUPPORT: Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted unanimously to submit a letter of support for the Marion Manufacturing Credit Union.

INTERMEDIA PARTNERS - RATE INCREASE: The City Manager presented Council with a letter from Intermedia reference the Basic Service Tier, Form 1240 - Rate Increase. According to the letter the Permitted charge for BST service is \$9.91 but Intermedia will charge \$9.55. That represents a rate increase of \$.84 per month for Basic Service. The rate increase is expected to go into effect on February 1, 1997. The Council asked that the news media advise the public that the City has no control over the rates charged by the cable company.

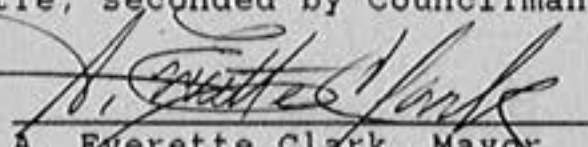
TOWN MEETING: Mayor Clark suggested that a Town Meeting be called on Thursday, January 9, 1997 in the Marion Community Building to allow citizens the opportunity to ask questions about city operations and to make suggestions for consideration by Council for the Planning Session later that month. It was suggested the Intermedia, Duke Power, GTE Telephone, Public Service Company and the Post Office have representatives present to answer any questions from citizens. It was also suggested that the Department of Environment, Health, and Natural Resources, Division of Water Quality have someone attend. The City Council agreed to proceed with setting up the Town Meeting.

COUNTY COMMISSIONERS - MEETING: The City Manager was instructed to work with the County Manager and set up a meeting with the County Commissioners and Old Fort Aldermen. It was suggested that the meeting could be a dinner meeting or a gathering at City Hall with finger-foods and soft drinks.

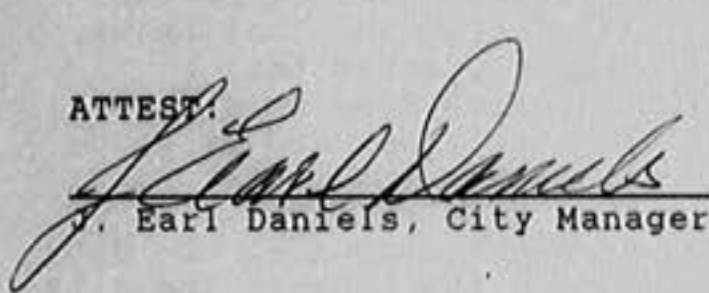
HOLIDAY PARADE: Council was advised that the Holiday Parade is scheduled for Sunday, November 24, 1996 at 3:00 P.M. Line up will begin at Advance Auto Parts at 2:30 P.M.

ANNUAL CHRISTMAS DINNER: It was agreed by Council that due to the shortfall in Water/Sewer Revenues, that the Annual Council Christmas Dinner would be "dutch".

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Owenby the meeting was adjourned at 9:10 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, December 3, 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; Tom Pruett, Police Chief; Jennifer Watson, News Reporter, McDowell News; Robert Swafford, News Reporter, McDowell Independent; Gail Sewell, News Reporter, WBRM Radio; Jim Issacs, Auditor, Johnson, Price & Sprinkle.

OTHERS PRESENT: Garland Franklin, 234 Spring Street, Marion, N.C. 28752; Pat Brown, Tree Committee Chairman, 621 Montevista Avenue, Marion, N.C. 28752; John Reese, Tree Committee Member, 14 Vine Street, Marion, North Carolina 28752; Rocky Williams, 124 North Garden Street, Marion, N.C. 28752; Mr. & Mrs. Randy Williams, 124 North Main Street, Marion, N.C. 28752; Mr. & Mrs. Marc Perez 352 Hillside Drive, 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 November 19, 1996 meeting.

TREE BOARD - REQUEST TREES BE REMOVED: The City Manager informed Council that the Tree Board is recommending that three trees located on the east side of North Garden Street, between Fort Street and New Street, be removed. John Reese of the N. C. Forest Service addressed Council regarding an inspection of the two large Elm Trees. He presented a report prepared by Phillip B. Ray, Certified Arborist with Duke Power Company. Mr. Ray's findings were as follows:

"Both Elms have been severely pruned using the old 'topping method'. Evidence of decay is visible in both trees along the trunk. The crowns of both trees show considerable die back. The large buttress roots along the sidewalk have recently been cut from both sidewalk repair and pipeline installation. Roots along the curbside show damage from vehicular traffic." Conclusions: "Both trees are in decline and are a threat to public safety. It would not be feasible to prune the dead wood from these trees. Pruning would not improve the health of the trees or lessen the amount of decay that threatens the structural integrity of either tree. Pruning may lessen the likelihood that a falling limb would bring down an electrical line, but would not remove the liability from these hazard trees." Mrs. Pat Brown, representing the Tree Board, advised Council that the Tree Board recommends that the trees be removed. Mr. and Mrs. Randy Williams informed Council that the trees were not on their property but the two large elms were located between the sidewalk and street in front of their property. They expressed their concern about the appearance of the street if the trees were removed. They advised that the trees had been there for many years and were approximately five (5') feet in diameter. They also expressed concern that the City did not follow through with having the trees trimmed by removing all limbs above the power lines as approved by Council at the Council meeting on April 2, 1996. The City Manager advised that the City could only request that Duke Power trim the trees but could not set their schedule for doing the work. He advised that the matter was brought to Council's attention on March 19, 1996 because several homes were without power, following an ice storm, because limbs from the trees had fallen breaking some power lines and that one or more lines were live in the street for several hours before Duke Power could cut the power off. He also stated that one vehicle was struck by a limb falling from one of the trees. He stated that since the city has been made aware of the danger to public safety, the City may be liable for any damages which may occur due to negligence in correcting the problem. A discussion followed. During the discussion it was pointed out that the Tree Board also recommends that if the three trees are removed that six to eight trees be planted within the same City Block. It was agreed that Mr. and Mrs. Randy Williams and Mr. Dean Walker be permitted to select the trees to be planted from a list of trees recommended. Mr. Walker advised Council that he valued Mr. and Mrs. Williams friendship but that he understood that it may be necessary to remove the trees because of the danger to public safety. He advised Council that Mr. Ray had stated that Duke Power would donate two trees to be planted on the Williams' private property. Duke Power would not plant the trees but would donate them. Councilman Owenby stated that he was the Council representative serving on the Tree Board and that the Board was concerned about the trees and wanted

them removed. He and Councilman Martin each stated that they were both new Council members when this issue was brought before Council in March. Councilman Little made a motion that the Council accept the recommendations of the Tree Board to have the trees removed. This motion was seconded by Councilman Owenby. Councilman Edwards advised that he was concerned that Mr. Phillip Ray, the Certified Arborist, was an employee of Duke Power Company and it may pose a conflict of interest. Councilman Edwards made a motion that the matter be tabled so Mr. and Mrs. Williams may employ a "tree specialist" to look at the trees and provide his findings. Councilman Edwards motion failed for lack of a second. Mayor Clark called for a vote on Councilman Little's motion. The vote was unanimous. Councilman Cuthbertson made a motion that the City remove the tree stumps and replace the trees removed with six to eight trees, within the block, to be selected by Mr. and Mrs. Williams and Mr. and Mrs. Dean Walker from a list prepared by the Tree Board, the trees to be as large as possible. This motion was seconded by Councilman Martin and the vote was unanimous.

TREE BOARD APPOINTMENTS: The Tree Board recommended that Ms. Loretta Smith be re-appointed to the Tree Board for another term to expire on December 31, 1998. The Tree Board also recommended that Mr. Mack Laughridge be appointed to the Tree Board to replace Mr. Wynn Jackson, whose term expires on December 31, 1996. Mr. Laughridge term would expire on December 31, 1998. The Tree Board also recommended that Mr. Ed Rankin be appointed to fill the unexpired vacancy of Mr. Joe Tyler. Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council unanimously voted to make the appointments as recommended made by the Tree Board.

MR. MARC D. PEREZ - REQUEST FOR THE CITY TO CLOSE A PUBLIC ALLEY-WAY - REPORT FROM STREET COMMITTEE: The City Manager informed Council that the Street Committee recommends that Mr. Perez be authorized to proceed with the necessary steps for the closing of the alley-way as requested. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted unanimously to accept the recommendations of the Street Committee. The City Manager explained to Mr. Perez that it is City policy that the petitioners for any street closing bear all expenses for advertising notices for the public hearing, legal work and documents, and recording. He advised that Mr. Perez may use any attorney of his choosing but that the City Attorney must review and approve the procedures and documents.

CITY AUDIT FOR THE YEAR ENDED JUNE 30, 1996: Mr. Jim Issac representing Johnson, Price and Sprinkle, Certified Public Accountants, presented the Audit for the City of Marion for the fiscal year ended June 30, 1996. Mr. Issac advised that the City had complied with all State and Federal requirements. He advised that all city employees were very cooperative. He informed Council that he would like to point out Note G. on page 37 - Significant Effects of Subsequent Events. Said section reads as follows:

Subsequent to the year ended June 30, 1996 and prior to the date of these financial statements, the City's largest water and sewer customer ceased operations. The amount of revenue generated through water sales and sewer service to this customer for the year ended June 30, 1996 was approximately \$204,000. This represent 18% of the total revenues from water and sewer service provided for the year ended June 30, 1996.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to accept the Audit as presented.

RESOLUTION OPENING AND MAINTAINING A DEPOSIT ACCOUNT:

Upon a motion by Councilman Little, Seconded by Councilman Martin, the City Council unanimously voted to adopt the following Resolution:

RESOLUTION

**CITY OF MARION
OPENING AND MAINTAINING A DEPOSIT ACCOUNT**

Resolved, that NationsBank, N.A. (Carolinas), is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any two of the following officers or employees of this Corporation:

A. Everette Clark, Mayor
 J. Earl Daniels, City Manager
 Robert N. Parker, Personnel Director/Administrative Assist.
 Kathryn B. McEntire, Bookkeeper

is/are hereby authorized, on behalf of this Corporation, and in its name to sign checks, drafts, notes, bills of exchange, acceptances, certificates of deposit or other orders for the payment of money; to endorse checks, notes, bills, certificates of deposit, or other instruments, owned or held by this Corporation for deposit with said Bank or for collection or discount by said Bank; to accept drafts, acceptances, and other instruments payable at said Bank; to place orders with said Bank for the purchase and sale of foreign currencies on behalf of this Corporation to execute and deliver an electronic funds transfer agreement and to appoint and delegate, from time to time, such persons who may request transfers on behalf of the Corporation; to establish and maintain a night deposit relationship; to waive presentment, demand, protest, and notice of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by this Corporation; and

Further Resolved, that NationsBank, N.A. (Carolinas) be and it hereby is authorized to honor, receive, certify, or pay all instruments signed in accordance with foregoing resolution even though drawn or endorsed to the order of any officer or employee signing the same or tendered by him for cashing, or in payment of the individual obligation of such officer or employee, or for deposit to his personal account, and said Bank shall not be required or be under any obligation to inquire as to the circumstances of the issuance or use of any instrument signed in accordance with the foregoing resolution, or the application or disposition of such instrument or the proceeds thereof; and,

Further Resolved, that NationsBank, N.A. (Carolinas) be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in this Corporation's name, including those payable to the individual order of any person or persons who name or names appear thereon as signer of signers thereof, when bearing or purporting to bear the facsimile signature(s) of the specified number of the foregoing officers or employees of this Corporation and NationsBank, N.A. (Carolinas) shall be entitled to honor and to charge this Corporation for such checks, drafts or other orders, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble the facsimile specimen duly certified to or filed with NationsBank N.A. (Carolinas), by the Secretary or Assistant Secretary or other officer of this Corporation; and,

Further Resolved, that the Secretary or Assistant Secretary of this Corporation shall certify to said Bank the name of the persons who are at present authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the personnel of said officers and employees are made, immediately certify such changes to said Bank, and said Bank shall be fully protected in relying on such certifications of the Secretary or Assistant Secretary and shall be indemnified and saved harmless from any claims, demands, expenses, loss, or damage resulting from, or growing out of, honoring the signature of any officer or employee so certified, or refusing to honor any signature not so certified; and,

Further Resolved, that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and that receipt of such notice shall not effect any action taken by said Bank prior thereto; and,

Further Resolved, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with NationsBank, N.A. (Carolinas) prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and,

Further Resolved, that the Secretary or Assistant Secretary be, and he hereby is, authorized and directed to certify these resolutions to NationsBank, N.A. (Carolinas) and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

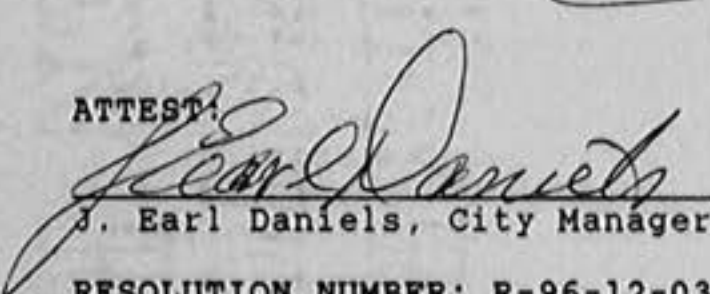
I further certify that the following are the names of the present officers of this Corporation:

Name	Title
A. Everette Clark	Mayor
J. Earl Daniels	City Manager
Robert N. Parker	Personnel Director/Admin. Asst.
Kathryn B. McEntire	Bookkeeper

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of this Corporation, this 3rd day of December, 1996.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager

RESOLUTION NUMBER: R-96-12-03-1

GRANT PROJECT ORDINANCE - MARION SCATTERED SITE HOUSING: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, the City Council unanimously voted to adopt the following Ordinance:

**GRANT PROJECT ORDINANCE
CITY OF MARION**

BE IT ORDAINED by the City of Marion City Council, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project is hereby adopted:

Section 1. The Project authorized is the Community Development Project described in the work statement contained in the Grant Agreement between this unit and the Department of Commerce, Division of Community Assistance.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the Department of Commerce, Division of Community Assistance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

Community Development Grant .	\$487,025
Total	\$487,025

Section 4. The following amounts are appropriated for the project:

Marion Scattered Site	
Private Dwelling.....	\$420,000
Administration.....	63,525
Planning.....	3,500
Total Project.....	\$487,025

Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

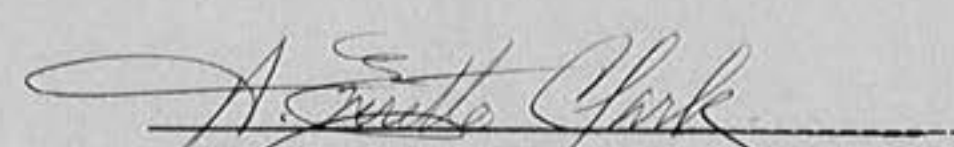
Section 6. Requests for funds should be made to the grantor agency in an orderly and timely manner as funds are obligated and expenses incurred.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this board.

Section 9. Copies of this Grant Project Ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

ADOPTED this 3rd day of December, 1996.


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, January 21, 1997 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, Billy Martin, Cecil Owenby, Steve Little and Mike Edwards.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Jennifer Watson, News Reporter, McDowell News; Robert Swafford & Mandi Rose, News Reporters, McDowell Independent; Gail Sewell, News Reporter, WBRM Radio; Bill Shaw, News Reporter, WMXF Radio.

GUESTS PRESENT: None

MARION POLICE DEPARTMENT UPDATE - PRESENTATION BY TOM PRUETT, CHIEF OF POLICE: The Chief of Police presented the following report:

Significant Figures for 1996

	1996	1995	1994
Total Reported Service/Activities:	15,520	13,668	12,600
Total Crimes Reported/Investigated:	1067	930	850

Including:

Murder	0	1	0
Rape	1	2	0
Robberies	10	1	4
Aggravated Assaults	6	17	13
Burglaries	91	72	96
Larcenies	259	302	254
Vehicle Thefts	21	20	24
Simple Assaults	136	93	69
Arson	2	0	3
Fraud/Check Cases	99	72	76
Vandalism	207	173	136

Arrests:

Persons	687	587	554
Times	741	625	615
Charges	852	772	665

Violence Interventions:	742	810	500
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Traffic:

Vehicle Stops	3619	3657	2550
Citation Charges	2610	3017	2100
DWI Arrest	86	93	92
Traffic Accidents	531	537	526
Assisted Stranded Motorists	399	306	270

Patrol:

Miles Driven	179,004	188,365	185,000
Gallons Fuel Used	15,765	16,729	16,415
Average Mileage (MPG)	11.35	11 1/4	11 1/4
Suspicious Vehicles Logged	1581	1182	813
Suspicious Persons Logged	701	508	559
Unlocked Buildings Found	145	186	100
Animal Control Request	260	303	226
Alarms Received	682	581	650

PERFCO III, LTD. PARTNERSHIP - 1995 TAX REFUND: The City Manager Presented Council with a memo from Ms. Claudia Hill, Tax Collector requesting a refund for Prefco III Ltd. Partnership in the amount of \$244.62.

The taxes were for the First Union building, PIN number 17107684082, located on North Main Street. The McDowell County Assessor's Office advised that there was a clerical error when the valuation was entered for the revaluation in 1995. The valuation billed for 1995 and 1996 was \$538,400.00, the correct valuation is \$492,050.00, a difference of \$46,350.00.

The tax amount on that value at 0.55 per \$100.00 is \$254.93. The property is in the Municipal Tax District, the value at 0.12 per \$100.00 is \$55.62. The total amount billed in error was \$310.55.

The 1995 taxes were paid in full. An adjustment was made for the 1996 taxes.

The Tax Collector requested a refund in the amount of \$244.62 be issued to Prefco III Ltd. Partnership and that \$65.93 be applied to the 1996 taxes.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the recommendation of the Tax Collector as stated above.

PIZZA HUT OF MARION - 1996 TAX REFUND: The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector requesting a refund for 1996 in the amount of \$908.82 be applied to the 1995 real property taxes in the name of Pizza Hut of Marion.

Pizza Hut of Marion should have been billed taxes on the building only, PIN number 170217223061B, located on North Main Street. The McDowell County Assessor's Office informed Ms Hill that in 1995 and 1996 Pizza Hut was billed real property taxes for the land and building. Nations Bank was suppose to be billed property taxes for the land. The valuation billed to Pizza Hut of Marion for 1995 and 1996 was \$316,870.00, the correct valuation is \$151,630.00 a difference of \$165,240.00. The tax amount on that value at 0.55 per \$100.00 is \$908.82.

Nations Bank has been billed a 1995 and 1996 discovery tax bill for the land.

The 1996 taxes were paid in full. An adjustments has been made on the 1995 taxes. The 1995 taxes are unpaid at this time.

The Tax collector is requesting that a refund for 1996 in the amount of \$908.82 be applied to the 1995 real property taxes in the name of Pizza Hut of Marion.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the recommendation of the Tax Collector as stated above.

BOARD MEMBERS ARRIVING LATE:

Councilman Mike Edwards arrived for this meeting at 7:40 P.M. due to a Court Case.

Councilman Steve Little also arrived at 7:40 P.M. due to his daughter being in a school function.

Both members had informed the Mayor or Manager that they would be arriving late.

RESOLUTION - OPENING A DEPOSIT ACCOUNT - POLICE FEDERAL GRANT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Resolution:


RESOLUTION

**CITY OF MARION
POLICE DEPARTMENT FEDERAL GRANT
OPENING AND MAINTAINING A DEPOSIT ACCOUNT**

Resolved, that NationsBank, N.A. (Carolinas), is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any one of the following officers or employees of this Corporation:

A. Everette Clark, Mayor
J. Earl Daniels, City Manager
Robert N. Parker, Personnel Director/Administrative Assist.
Kathryn B. McEntire, Bookkeeper

ATTEST:


 Earl Daniels, City Manager/Clerk

ORDINANCE NUMBER: O-96-12-03-1

DESIGNER HARDWOODS INC. - PROJECT AGREEMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the City Council unanimously voted to approve the agreement entitled PROJECT AGREEMENT BETWEEN DESIGNER HARDWOODS, INC. & THE CITY OF MARION, NORTH CAROLINA. A copy of this document can be found in the safe under Legal Document # 676.

FAIR HOUSING PLAN UPDATE: Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council unanimously voted to adopt the following Fair Housing Plan Update:

**FAIR HOUSING PLAN UPDATE
CITY OF MARION**

The City of Marion follows the Title VIII Civil Rights Act in administration of its Community and Economic Development programs.

the City proposed the following activities to further fair housing during the period from December 3, 1996 until December 3, 1997.

1. Print an advertisement in the local newspaper promoting fair housing in McDowell County and the City of Marion. Complete during the first quarter of 1997 (January, February, March).
2. Advertise in local real estate guide offering information to low income home buyers. Complete during the second quarter of 1997 (April, May, June).
3. Develop a service directory listing the addresses, phone numbers, and contact names for the various agencies providing services within the area. Complete during the third quarter (July, August, September).
4. Provide landlord/tenant guides to help residents with a variety of housing problems, including housing discrimination. These guides will be offered through the housing offices where they apply (October, November, December).

The completed ongoing activities include:

1. Section 8 Rental Assistance and Counseling
2. Weatherization of low income homes
3. dissemination of housing information
4. Rental unit maintenance and counseling
5. City support for the PHA
6. Provision of energy related home repair
7. Reverse mortgage counseling
8. Coordination of low income housing programs with developers
9. Participation assistance for low income counseling
10. Application assistance for low income counseling

This Fair Housing Plan Update was approved by the City Council of the City of Marion, North Carolina on December 3, 1996.

December 3, 1996
Date


 A. Everette Clark, Mayor

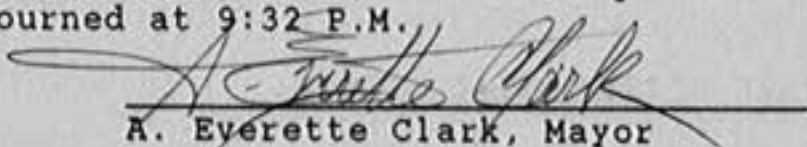
COUNCIL COMMENTS:

Councilman Little informed Council that he and Mayor Clark would be attending the National League of Cities Meeting in San Antonio. He advised that he and Mayor Clark each serve on a board or committee of the National League. He stated that as a condition of the appointment he had to agree to attend the meetings. He stated that the City is fortunate to have two members of the Board serving on National Committees. He informed Council that he would need transportation to and from the Airport in Charlotte, if possible. He ask if a City vehicle could be made available. The City Manager advised that he was sure some arrangements could be made.

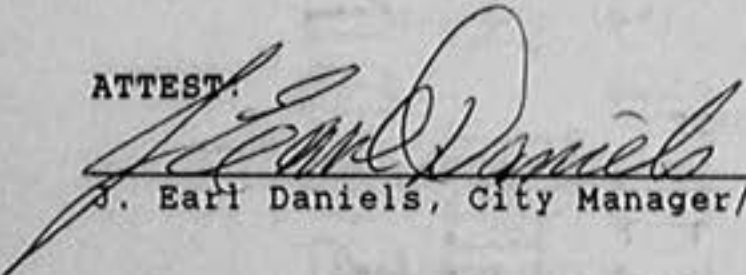
Councilman Cuthbertson reported on the Nebo Waterline Committee meeting in Nebo.

Councilman Owenby advised that a City employee had ask about the City allowing employees to rent uniforms. The City Manager advised that at one time employees did rent uniforms but there was a problem in that the companies want the City to be responsible for any uniforms not returned. He advised that he would check into the matter and see if there is sufficient interest to warrant entering into an agreement.

ADJOURNMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, the meeting was adjourned at 9:32 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, January 7, 1997 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; Jennifer Watson, News Reporter, McDowell News; Robert Swafford, News Reporter, McDonnell Independent; Gail Sewell, News Reporter, WBRM Radio; Bill Shaw, News Reporter, WDLF.

GUESTS PRESENT: Mr. Merrell Brooks, Marion, N.C. 28752

APPROVAL OF MINUTES: Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, Council voted unanimously to approve the minutes of the December 3, 1996 meeting.

BUFF'S USED CARS - COMPLAINT: The City Manager presented a letter from Mr. Jack Buff advising that the City garbage truck pulled down some pennants (flags) that he had hanging on a line parallel with North Main Street in front of his Car Sales Lot. Public Works Director Glen Sherlin informed Council that the City garbage truck did pull down the pennants and that he had City forces make repairs to Mr. Buff's satisfaction but that the pennants either fell or were pulled down a second time. Mr. Sherlin advised that City employees questioned about this advised that the City did not pull down the pennants the second time. Following a short discussion, it was agreed that since the garbage truck did pull down the pennants the first time that the City would reimburse Mr. Buff. Upon a motion by Councilman Owenby, seconded by Councilman Little, the City Council voted unanimously to reimburse Mr. Buff in the requested amount of \$195.00, with the understanding that acceptance of the check would resolve the matter completely.

SEWER BLOCKAGE - REQUEST FOR REIMBURSEMENT - DEAN WALKER:

The City Manager presented a letter from Mr. Dean Walker requesting reimbursement in the amount of \$160.00 paid to a private plumber to clean-out a sewer-line. The actual blockage was not on Mr. Walkers property but in the public street. A copy of the bill from Cable and Perkins Plumbing Company was presented confirming the actual charges. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to reimburse Mr. Walker in the amount of \$160.00 as requested, with acceptance of the check resolving the matter.

WATERLINE EXTENSION POLICY: The City Manager informed Council that he had received three requests for waterline extensions outside the City limits:

1. Roby Conley Road - Waterline Extension Request - Pam
and Joe Shinpaugh
2. N.C. 226 South - Waterline Extension Request -
Clifford Seagle and Ms. Norman
3. Yancy Road - Waterline Extension Request - Rick Evans

The City Manager informed Council that he had been working on a new waterline extension policy which, if approved, would allow the City Manager and Public Works Director to work out waterline extensions, within guidelines approved by Council, without having to bring such extensions for discussion at Council meetings. He requested permission to meet with the Utility Committee to work out details on the proposed policy prior to formal presentation to Council. He advised that approval of such a policy would insure that all applicants for waterline extensions would follow the same procedures, without exception, and Council would need only deal with those requests having very unusual circumstances. Such a policy would not prohibit individuals from appealing to Council but should reduce considerably direct action by Council in reviewing such requests. It was agreed that the Utility Committee would meet at 8:15 A.M. on Monday, January 13, 1996 in the City Manager's Office.

HILLSIDE DRIVE - RESOLUTION - STREET CLOSING (Old Bower Avenue): Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to adopt the following Resolution:

**RESOLUTION OF MARION CITY COUNCIL
RELATIVE TO CLOSING OLD BOWER AVENUE**

BE IT RESOLVED THAT, pursuant to the provisions of North Carolina General Statutes 160A-299, the City Council of Marion, North Carolina, hereby declares its intent to permanently close that alleyway known as Old Bower Avenue shown, for identification and location purposes only, on a survey of property now owned by Charles T. Clyburn and wife Linda L. Clyburn, (said survey is attached hereto and marked exhibit A and is specifically incorporated by reference as if fully set forth herein). The legal description of the portion of Old Bower Avenue effected is as follows:

Being a right of way known as the Old Bower Avenue which right of way is forty feet in width and which right of way is shown on a certain unrecorded plat of survey entitled "Survey for Charles T. Clyburn and Linda L. Clyburn" and which survey is dated May 22, 1996 and which survey is prepared by Suttles Surveying, P.A., and from which survey the metes and bounds description of the Western boundary line of the forty foot wide right of way is taken and is as follows:

BEGINNING at a one inch iron pipe set which is located North 56 degrees 13 minutes 17 seconds West 101.10 feet from an existing one half inch iron pipe which is referenced as the eighth corner of Deed Book 406, page 104, McDowell County Public Registry; thence from said BEGINNING point and with the Western edge of Old Bower Avenue, South 32 degrees 17 minutes 10 seconds West 70.97 feet to a one inch iron pipe set; thence South 26 degrees 41 minutes 46 seconds West 68.17 feet to a one inch iron pipe set; thence South Easterly with a curve which has a radius of 68.90 feet, a length of 117.79 feet, a tangent of 79.19 feet, a chord of 103.96 feet, a chord bearing of South 22 degrees 16 minutes 46 seconds East and a delta of 97 degrees 57 minutes 06 seconds, to a one inch iron pipe set.

A Public hearing is called to be held in the City Council Chamber in the City Hall, Marion, North Carolina at 7:00 o'clock P.M. on February 18, 1997, at which hearing any person may be heard on the question of determining whether or not the closing of said portion of said street would be detrimental of the public interest or the property rights of any individual.

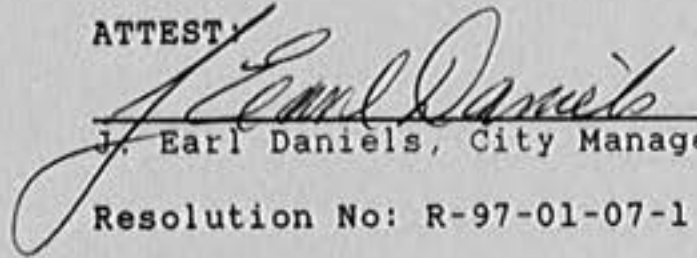
BE IT FURTHER RESOLVED that a copy of this Resolution shall be published once a week for four (4) successive weeks in The McDowell News, Marion, North Carolina, prior to the date of said public hearing, and that a copy of the same shall be sent by registered or certified mail to the following:


1. Charles T. Clyburn and wife, Linda L. Clyburn
2. Marc D. Perez and wife, Hillary Mechaud Perez

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

ADOPTED this the 7th day of JANUARY 1997.

ATTEST


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

Resolution No: R-97-01-07-1

CATAWBA STREET: Councilman Martin presented a petition requesting that Catawba Street be made a One-Way Street from Old West Henderson Street to Hudgins Street.

MISCELLANEOUS ITEMS:

Mayor Clark advised that he wanted Council Members to keep the year 2000 in mind as it is soon approaching. Thought needs to be given to planning festivities possibly with the McDowell County Commissioners and the Town of Old Fort Aldermen.

Councilman Edwards suggested that a display board be made to display the names of every mayor and councilman having served the City of Marion. The City Manager advised that since terms in office were at one time only two years, that there would be a lot of names to display and that City records were not available earlier than the late 1800s. He advised that he would begin work on gathering the names. He informed Council that the office is operating with one less employee and that with Ms. Smith out for an extended period of time that it may be necessary to hire one employee or get temporary help.

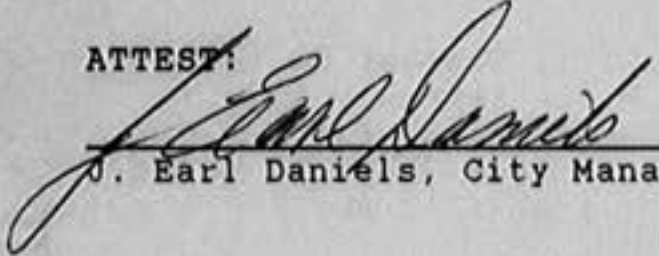
Councilman Little advised that with the paving of East Court Street, the new traffic lanes painted by the DOT were not the same as the old traffic lanes. The old lanes provided at both Garden Street and Main Street, one left turn lane, one straight through lane and one right turn lane. The new lanes only provide one left turn lane and one straight through and right turn lane combined. Councilman Little advised that this is backing up traffic and should be changed back to provide three lanes instead of two. A question was also raised as to why the DOT did not pave under the Traffic Light on East Court and Garden Street. The City Manager advised that he would contact the DOT regarding these matters.

Councilman Owenby asked that the prison department be contacted to see if some prisoners could be used to clean ditches in the Clinchfield Area. He also asked that the City assist Mr. Terry Randolph in installing a drainage pipe along 6th street within the street right of way. Councilman Owenby also advised that there is a problem with the Traffic light at the entrance to the City Square Shopping Center of North Main Street. The light does not cycle properly. The City Manager advised that he would get that information to DOT. Councilman Owenby also said he had received a complaint about the appearance of the American Flag at the Fire Department. It was determined that it is proper to fly the Flag at night provided it is lighted. It was decided that all Flags would be taken down in the evening and raised in the morning.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Martin, the meeting was adjourned at 8:50 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, January 21, 1997 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, Billy Martin, Cecil Owenby, Steve Little and Mike Edwards.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Jennifer Watson, News Reporter, McDowell News; Robert Swafford & Mandi Rose, News Reporters, McDowell Independent; Gail Sewell, News Reporter, WBRM Radio; Bill Shaw, News Reporter, WMXF Radio.

GUESTS PRESENT: None

MARION POLICE DEPARTMENT UPDATE - PRESENTATION BY TOM PRUETT, CHIEF OF POLICE: The Chief of Police presented the following report:

Significant Figures for 1996

	1996	1995	1994
Total Reported Service/Activities:	15,520	13,668	12,600
Total Crimes Reported/Investigated:	1067	930	850

Including:

Murder	0	1	0
Rape	1	2	0
Robberies	10	1	4
Aggravated Assaults	6	17	13
Burglaries	91	72	96
Larcenies	259	302	254
Vehicle Thefts	21	20	24
Simple Assaults	136	93	69
Arson	2	0	3
Fraud/Check Cases	99	72	76
Vandalism	207	173	136

Arrests:

Persons	687	587	554
Times	741	625	615
Charges	852	772	665

Violence Interventions:	742	810	500
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Traffic:

Vehicle Stops	3619	3657	2550
Citation Charges	2610	3017	2100
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Patrol:

Miles Driven	179,004	188,365	185,000
Gallons Fuel Used	15,765	16,729	16,415
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Suspicious Persons Logged	701	508	559
Unlocked Buildings Found	145	186	100
Animal Control Request	260	303	226
Alarms Received	682	581	650

PERFCO III, LTD. PARTNERSHIP - 1995 TAX REFUND: The City Manager Presented Council with a memo from Ms. Claudia Hill, Tax Collector requesting a refund for Prefco III Ltd. Partnership in the amount of \$244.62.

The taxes were for the First Union building, PIN number 17107684082, located on North Main Street. The McDowell County Assessor's Office advised that there was a clerical error when the valuation was entered for the revaluation in 1995. The valuation billed for 1995 and 1996 was \$538,400.00, the correct valuation is \$492,050.00, a difference of \$46,350.00.

The tax amount on that value at 0.55 per \$100.00 is \$254.93. The property is in the Municipal Tax District, the value at 0.12 per \$100.00 is \$55.62. The total amount billed in error was \$310.55.

The 1995 taxes were paid in full. An adjustment was made for the 1996 taxes.

The Tax Collector requested a refund in the amount of \$244.62 be issued to Prefco III Ltd. Partnership and that \$65.93 be applied to the 1996 taxes.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the recommendation of the Tax Collector as stated above.

PIZZA HUT OF MARION - 1996 TAX REFUND: The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector requesting a refund for 1996 in the amount of \$908.82 be applied to the 1995 real property taxes in the name of Pizza Hut of Marion.

Pizza Hut of Marion should have been billed taxes on the building only, PIN number 170217223061B, located on North Main Street. The McDowell County Assessor's Office informed Ms Hill that in 1995 and 1996 Pizza Hut was billed real property taxes for the land and building. Nations Bank was suppose to be billed property taxes for the land. The valuation billed to Pizza Hut of Marion for 1995 and 1996 was \$316,870.00, the correct valuation is \$151,630.00 a difference of \$165,240.00. The tax amount on that value at 0.55 per \$100.00 is \$908.82.

Nations Bank has been billed a 1995 and 1996 discovery tax bill for the land.

The 1996 taxes were paid in full . An adjustments has been made on the 1995 taxes. The 1995 taxes are unpaid at this time.

The Tax collector is requesting that a refund for 1996 in the amount of \$908.82 be applied to the 1995 real property taxes in the name of Pizza Hut of Marion.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the recommendation of the Tax Collector as stated above.

BOARD MEMBERS ARRIVING LATE:

Councilman Mike Edwards arrived for this meeting at 7:40 P.M. due to a Court Case.

Councilman Steve Little also arrived at 7:40 P.M. due to his daughter being in a school function.

Both members had informed the Mayor or Manager that they would be arriving late.

RESOLUTION - OPENING A DEPOSIT ACCOUNT - POLICE FEDERAL GRANT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Resolution:

RESOLUTION

**CITY OF MARION
POLICE DEPARTMENT FEDERAL GRANT
OPENING AND MAINTAINING A DEPOSIT ACCOUNT**

Resolved, that NationsBank, N.A. (Carolinas), is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any one of the following officers or employees of this Corporation:

A. Everette Clark, Mayor
J. Earl Daniels, City Manager
Robert N. Parker, Personnel Director/Administrative Assist.
Kathryn B. McEntire, Bookkeeper

is/are hereby authorized, on behalf of this Corporation, and in its name to sign checks, drafts, notes, bills of exchange, acceptances, certificates of deposit or other orders for the payment of money; to endorse checks, notes, bills, certificates of deposit, or other instruments, owned or held by this Corporation for deposit with said Bank or for collection or discount by said Bank; to accept drafts, acceptances, and other instruments payable at said Bank; to place orders with said Bank for the purchase and sale of foreign currencies on behalf of this Corporation to execute and deliver an electronic funds transfer agreement and to appoint and delegate, from time to time, such persons who may request transfers on behalf of the Corporation; to establish and maintain a night deposit relationship; to waive presentment, demand, protest, and notice of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by this Corporation; and

Further Resolved, that NationsBank, N.A. (Carolinas) be and it hereby is authorized to honor, receive, certify, or pay all instruments signed in accordance with foregoing resolution even though drawn or endorsed to the order of any officer or employee signing the same or tendered by him for cashing, or in payment of the individual obligation of such officer or employee, or for deposit to his personal account, and said Bank shall not be required or be under any obligation to inquire as to the circumstances of the issuance or use of any instrument signed in accordance with the foregoing resolution, or the application or disposition of such instrument or the proceeds thereof; and,

Further Resolved, that NationsBank, N.A. (Carolinas) be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in this Corporation's name, including those payable to the individual order of any person or persons who name or names appear thereon as signer of signers thereof, when bearing or purporting to bear the facsimile signature(s) of the specified number of the foregoing officers or employees of this Corporation and NationsBank, N.A. (Carolinas) shall be entitled to honor and to charge this Corporation for such checks, drafts or other orders, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble the facsimile specimen duly certified to or filed with NationsBank N.A. (Carolinas), by the Secretary or Assistant Secretary or other officer of this Corporation; and,

Further Resolved, that the Secretary or Assistant Secretary of this Corporation shall certify to said Bank the name of the persons who are at present authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the personnel of said officers and employees are made, immediately certify such changes to said Bank, and said Bank shall be fully protected in relying on such certifications of the Secretary or Assistant Secretary and shall be indemnified and saved harmless from any claims, demands, expenses, loss, or damage resulting from, or growing out of, honoring the signature of any officer or employee so certified, or refusing to honor any signature not so certified; and,

Further Resolved, that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and that receipt of such notice shall not effect any action taken by said Bank prior thereto; and,

Further Resolved, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with NationsBank, N.A. (Carolinas) prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and,

Further Resolved, that the Secretary or Assistant Secretary be, and he hereby is, authorized and directed to certify these resolutions to NationsBank, N.A. (Carolinas) and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

I further certify that the following are the names of the present officers of this Corporation:

Name	Title
A. Everette Clark	Mayor
J. Earl Daniels	City Manager
Robert N. Parker	Personnel Director/Admin. Asst.
Kathryn B. McEntire	Bookkeeper

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of this Corporation, this 21st day of January, 1997.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

J. Earl Daniels
J. Earl Daniels, City Manager

ORDINANCE - CATAWBA STREET - ONE WAY: Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
ONE WAY STREET
CATAWBA STREET

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

Section 1. That Section 18-127 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

ST.NAME	SEC.	1982 CODE	REG. TYPE	REG. LIMIT	REG. APPLICATION
CATAWBA	18-127	110	ONE-WAY	ONE-WAY	FROM OLD WEST HENDERSON STREET TO EAST HUDGINS STREET

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

Adopted this the 21st day of January, 1997.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

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

Ordinance Number: O-97-01-21-1

WATER LINE EXTENSION POLICY - USING CITY FORCES:

The City Manager presented a new proposed water line extension policy and advised Council that the proposed policy would provide for considerable savings to persons wanting water service but unable to pay for water line extensions under the existing policy. He continued by stating that it was unfair for groups of citizens to put Council under pressure for special treatment and that the new policy would authorize the Public Works Director and Manager to act on behalf of the City without Council having to become directly involved. The Public Works Director and Manager would have to operate within the guidelines established by Council in the new policy. Councilman Owenby informed Council that he had reviewed the proposed new policy and was in favor of the policy but felt that the requests received prior to the preparation of the new policy should not be required to comply with the new policy. It was pointed out that the present policy required the applicants to pay the total cost for any water line extension outside the City Limits. Councilman Owenby advised, that in his opinion, Mr. Cliff Seagle should be treated in the same manner as the residents of Landis Loop Road. In that project, still pending, McDowell County agreed to pay for all materials for the water line extension and for any rock removal. The

residents were only required to pay \$200.00 for 3/4" water taps when the reduced tap fees were set at \$550.00 for outside users and \$350.00 for inside users. It was suggested that Mr. Seagle could approach the County about paying his part of the cost for extension of the water line but that the City should not provide a water tap at less than the reduced outside rate. Councilman Owenby informed Council that Mr. Seagle had contributed \$30,000.00 toward the installation of the water line extension along N.C. 226 and that consideration should be given to that contribution which helped to provide water to the new prison. Mayor Clark stated that water line extension was made at Mr. Seagles request to provide water service to the Rocky Pass Rest Home because he was apparently unable to provide service by a private well. He advised that the City had over \$75,000.00 in that water line extension which at the time only served two customers. He stated that Mr. Seagle had since sold the Rest Home and that water line extension should not have anything to do with the present request. Councilman Owenby advised that he would make the motion to adopt the policy but would ask that the Council consider the Seagle request after approval of the new policy. The City Manager asked that the Council not adopt a new policy and then take action on a matter that is not in compliance with the new policy. He asked that if action is to be taken on the Seagle request, it should be taken prior to adoption of a new policy.

A short discussion followed.

Upon a motion by Council Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following water line extension policy and that the three pending requests for water line extensions be considered under the new policy:

WATER LINE EXTENSION POLICY
OUTSIDE THE CITY LIMITS
USING CITY FORCES

It shall be the policy of the City of Marion to extend its water system, outside the City limits, in accordance with the terms and conditions of this Policy, when such extension is accomplished by using City forces for all or a major portion of such extension. The City of Marion shall not be bound or otherwise obligated to participate in the cost of any water system extension which may be proposed under the terms of this policy.

A. APPLICATION FOR EXTENSION:

All persons desiring extension(s) to the water system of the City of Marion shall make application in writing to the City Manager. The application shall specify the following:

1. The name, address and telephone number of the applicant(s).
2. The location of the property and geographic area for which water service is desired.
3. The total number of residential units, commercial establishments or industrial facilities to be served with a description of each type.
4. The total volume of water requested in terms of gallons per day and gallons per minute after full development of the property or properties for which service is desired.
5. A schedule or date by which the applicant desires to begin receiving water service as a result of the requested extension(s).
6. Any other information that may be requested by the City.

B. EXTENSIONS ALONG PUBLIC ROADS MAINTAINED BY THE N.C. D.O.T:

The City of Marion will extend a City owned water line along any public road maintained by the D.O.T. for a distance up to one hundred feet (100'), per meter service requested, without charge to the applicant(s), provided such extension does not cross a river, railroad tracks, interstate or major highway and further provided no rock removal is required. In the event that is necessary, the applicant(s) will pay, in advance of construction, the

total estimated cost for such crossing or rock removal. Should the water line extension exceed one hundred feet per meter service requested, the applicant(s) shall pay, in advance of construction, an amount per lineal foot, as may be established from time to time by City Council, to cover the additional costs.

In addition, the applicant(s) must sign an agreement that they will use City water, or pay to the City the minimum monthly water charges, for at least thirty-six (36) months.

Should the applicant(s) individually pay from their personal funds, for a water line extension, an amount in excess of the difference between the outside tap fee and the inside tap fee, then the City will charge that applicant the inside tap fee for connection. Under no circumstances shall any applicant outside the City limits receive a water tap at less than the inside tap fee. This provision does not apply to fire hydrants or fire connections. Applicant(s) requesting fire hydrants shall pay the entire cost for same in advance of installation. Applicant(s) requesting fire connections shall pay the established fees.

Under no circumstances will the City reimburse any applicant(s) for any funds contributed for any water line extensions.

C. EXTENSIONS AND PRIVATE DEVELOPMENTS:


City forces will not install water lines on private property or along private roads. Developers of private developments such as shopping centers, mobile home parks, and apartment complexes shall be responsible for both installation and maintenance of water lines on private properties. The City Manager and Public Works Director will review and approve, prior to construction, the plans and specifications for any water lines to be connected to the City's water system. A main valve will be installed by City forces, at the developers expense, at the property line so the entire private system can be turned off in the event of a water leak on a water line not metered. Tap fees will be charged by the City and meters will be installed by City forces. Should the developer(s) be required to install a private water line two inches (2") or greater in diameter to serve the project, the City will reduce the tap fees, for the total number of meter services to be initially installed at the same time, by the developers cost for installation of the private water line; however, the City will not charge less than the sum of the total individual inside tap fees. All other meters installed at a later date will be at outside tap fees.

Under no circumstances will the City reimburse any applicant(s) for any funds contributed for any water line extensions.

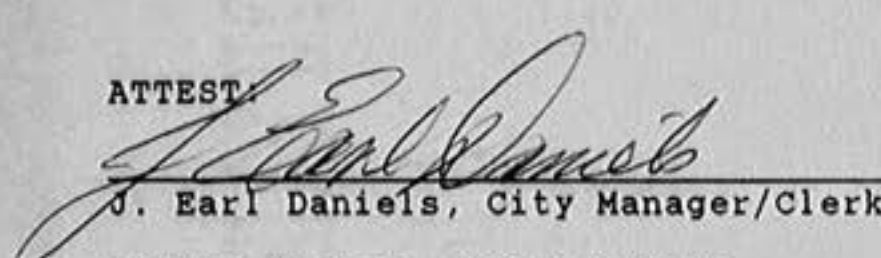
D. ENGINEERING SERVICES: The City will pay for engineering services on D.O.T. maintained roads and developers will pay for engineering services on private properties, including private roads.

E. CITY SYSTEM STANDARDS: All water line extensions shall be completed in accordance with all City specifications and construction standards as they exist at the time of the extension.

Adopted this the 21st day of January, 1997.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Policy Number: P-97-01-21-1

RESOLUTION - ESTABLISHING COST PER LINEAL FOOT - WATER LINE EXTENSIONS:

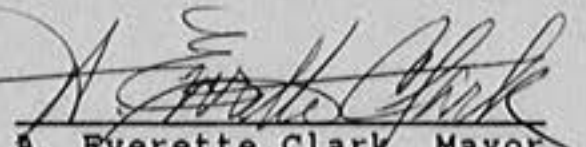
Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to approve the following Resolution:

RESOLUTION
ESTABLISHING COST PER LINEAL FOOT
FOR WATER LINE EXTENSIONS
OUTSIDE THE CITY LIMITS

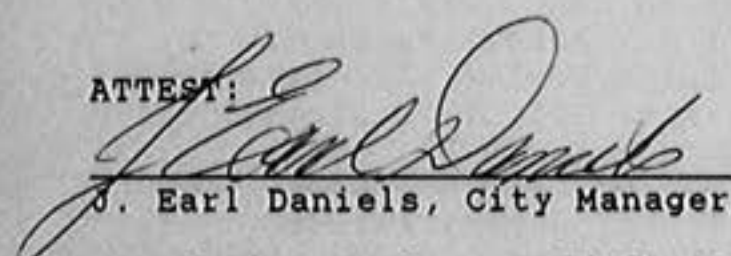
BE IT RESOLVED by the City Council of the City of Marion, North Carolina that the following amounts shall be charged to developers for water line extensions under the terms of the policy entitled WATER LINE EXTENSION POLICY-OUTSIDE THE CITY LIMITS-USING CITY FORCES adopted by the City Council on January 21, 1997:

Size Water Line Extended	Cost per Lineal Foot for all over 100' per meter service requested
6 inch diameter line	\$ 5.00 per lineal foot
8 inch diameter line	\$ 6.50 per lineal foot
10 inch diameter line	\$ 8.00 per lineal foot
12 inch diameter line	\$ 10.50 per lineal foot

Adopted this the 21st day of January, 1997


A. Everett Clark, Mayor

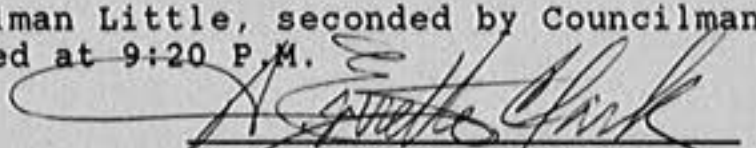
ATTEST:


J. Earl Daniels, City Manager/Clerk

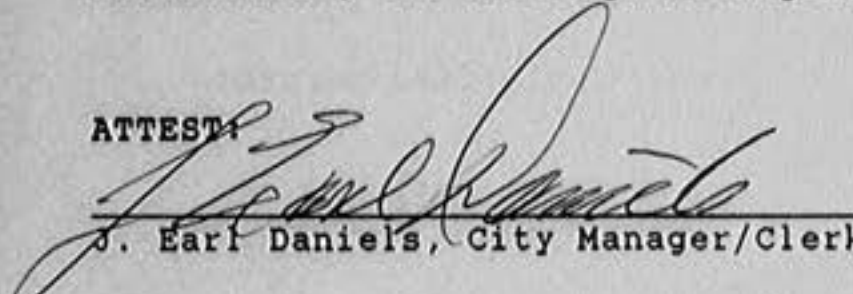
Resolution Number: R-97-01-21-2

CATAWBA RIVER WASTE WATER TREATMENT PLANT - NOISE CONTROL - MCGILL ASSOCIATES: The City Manager informed Council that he had received several complaints about noise generated by the Catawba River Waste Water Treatment Plant. He presented a letter from Michael J. Waresak, P.E. with McGill Associated advising that silencers could be installed on the larger blowers and the cost, including rerouting of air lines, would be \$8,250.00. It was also suggested that check valves be installed on the blowers so that one blower could be shut off periodically when not needed. That cost would be \$800.00. Mayor Clark advised that the plant has been in operation for about ten years and we have not received noise complaints in the past. He informed Council that he would not like to spend money to put silencers on the blowers only to find out later that the motors need be replaced. It was suggested that someone from McGill Associated attend the next meeting for a more thorough explanation.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the meeting was adjourned at 9:20 P.M.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Town Meeting on Thursday evening, January 30, 1997 at 7:00 P.M. at the Marion Community Building.

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

OTHERS PRESENT: J. Earl Daniels, City Manager, Debi Laughridge, Secretary; Tom Pruett, Police Chief; Tom Milligan, Fire Chief; Ron Evans, Building Inspector; Glen Sherlin, Public Works Director; Buck Byrd, Chief Water Filter Plant Operator; Aaron Adams, Street Superintendent; Steve Basney, Water Superintendent; Butch Howell, Chief Waste Water Treatment Plant Operator; Freddie Killough, DBA; Jennifer Watson, News Reporter, The McDowell News; Robert Swafford, News Reporter, The Independent News.

UTILITY REPRESENTATIVES:PUBLIC SERVICE COMPANY OF NORTH CAROLINA

Eric Robinson, Area Manager
 Randy Heffner, Appliance Sales Representative
 George Ratchford, Director of Western Region

UNITED STATES POSTAL SERVICE:

Charles Dicks, Supervisor

INTERMEDIA CABLE COMPANY:

Wayne Ollis, General Manager
 Brenda Dale, Office Manager

GTE TELEPHONE COMPANY:

Steve Fowler, Local Manager

DUKE POWER COMPANY:

Steve Swaim, District Manager
 Don Hollifield, Region Process Leader

GUESTS PRESENT: Mr. Gary Arnold, 615 Oak Street, Marion, N.C. 28752; Mr. Robin Hood, Outside City Limits, Marion, N.C. 28752; Mr. Robert Kasek 616 Monte Vista Avenue, Marion, N.C. 28752; Mr. & Mrs Donald Fowler, 525 Forest Heights Drive, Marion, N.C. 28752; Ms. Kaye Cuthbertson, 201 Broad Street, Marion, N.C. 28752; L.W. Putnam, P.O. Box 1347, Marion N.C. 28752; Ms. Barbara Ledford, Route 4, Box 1265 Marion, N.C. 28752; Mr. David Setzer, 20 New Street, Marion, N.C. 28752; Mr. Chet Effler, MPD; Mr. Johnny Patton, MPD;

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

Mayor Clark introduced the Marion City Council and then representatives from the various local utility companies.

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

Mr. Gary Arnold informed Duke Power representatives that for the past month the power at his residence, located on Oak Street, fluctuated more than 5% above and below 120 volts.

Mr. Don Hollifield of Duke Power stated that this sounds like a local problem, and that it would be fixed if it was indeed a Duke Power problem.

Mr. Robin Hood asked representatives from Intermedia Cable when the cable system would be updated and additional channels added.

Mr. Wayne Ollis of Intermedia stated that at this time ninety-five percent of the cable lines on the system was thirty year old.

Intermedia will begin updating the lines on March 1, 1997 and anticipates being finished by August 1, 1997. Upon completion, there will be fifteen new channels added.

Mr. Merrill Brooks of Marion directed his questions to Duke Power representatives. He advised that power had been off in his community on several occasions and that all that was needed was for someone to throw a breaker back in. Mr. Hollifield advised that when service is off, Duke Power employees have to work back from the main lines to the service lines. That throwing a breaker back in before the main lines are restored will not restore service.

Mr. Gary Arnold also asked Council if there was anything that could be done in reference to the Street conditions at the intersection of East Court and Clay Street.

Street Superintendent Aaron Adams advised that the Department of Transportation had already been notified about the dip in the street and requested to make the necessary repairs.

Mr. David Setzer of 20 New Street advised that he wanted to commend City Personnel for the work performed during the Christmas Holidays in reference to Garbage Collections.

Mayor Clark stated that he had received complaints concerning the landscaping and cleanliness of the local Post Office. He advised that the City tries very hard to keep the down-town area clean and that something needs to be done in replacing the unsightly plants at the Post Office. He also stated that he was very concerned about the cleanliness of the building and property. Mr. Charles Dicks informed the Mayor that the Post Office now owns the property and that they would be happy to work with the City in trying to improve the appearance of the property. Mayor Clark also advised that the City had suggested many years ago that the area on the south side of the Post Office be opened so traffic can enter from Garden Street and exit on Main Street to eliminate some of the traffic congestion in the area.

Mayor Clark also advised representatives from Duke Power that the City was not happy with the way Duke Power mowed the grass and weeds at their sub-station on Baldwin Avenue and Rutherfordton Road. He advised that the property was not mowed often enough to keep the weeds down.

Mayor Clark thank all of the utility representatives and the general public for attending the meeting.

There being no further business the meeting was adjourned.

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 4, 1997 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 and Cecil Owenby.

BOARD MEMBER ABSENT: Councilman Billy Martin was absent. Council was advised that Councilman Martin had called in to advise that he was ill and would not be present.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Milligan, Fire Chief; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Robert Swafford, News Reporter, The Independent; James Bright, News Reporter, WMXF.

GUESTS PRESENT: Mr. Kenneth Suttles, Suttles Surveying P.A., Marion, N.C. 28752; Larry Greene, Greene Surveying & Mapping P.A., Marion, N.C. 28752, Warren Hobbs, Marion, N.C. 28752; Eugene Holland, 111 Railroad 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 January 21, 1997 Meeting.

GREENE SURVEYING - PRESENTATION OF CITY MEDALLION: Mr. Warren Hobbs, Chairman of the Sesquicentennial Committee was present to present to Larry Greene a Sesquicentennial Medallion for his work in re-surveying the original boundaries of the City of Marion. Mr. Ken Suttles was also recognized for re-surveying the boundaries. Mr. Suttles had already been presented a Medallion at an earlier date. The City Council thank both gentlemen for their labors, without pay, in re-surveying the boundaries. Medallions will be located at each of the four original corners and also at some street intersections in the original layout of the town.

CATAWBA RIVER PLANT - BLOWER MOTORS - NOISE PROBLEM: The City Manager informed Council that he and Public Works Director did not agree with the recommendations from McGill Associates on correcting the noise problem at the Catawba River Plant. He asked for authorization for City Forces to relocated the blowers to a concrete pad and enclose the blowers within a structure to reduce the noise. Upon a motion by Councilman Owenby, seconded by Councilman Little, the City Council voted unanimously to authorize the work as recommended by the City Manager.

CATAWBA STREET (OFF TREMONT STREET)- REQUEST TO OPEN - EUGENE HOLLAND: Mr. Eugene Holland was present to request that Catawba Street (off Tremont Street) be opened.

According to the Minutes of the June 27, 1991 City Council Meeting, City Council voted unanimously to approve Mr. Mitch Gillesie's request to open the Street at his expense. Mr. Gillesie was the owner of this property at the time.

Following a short discussion Council determined that no further action is needed.

STROUD STREET-PETITION FOR ANNEXATION - RWC INVESTMENTS:

The City Manager presented a petition from RWC Investments that a lot owned by RWC Investments be annexed. Council was advised that the property could be served by a gravity sewer line but that the cost would be too great, to the City and to the owners, to extend the line for service at this time. The owners have agreed to install and maintain, on their property, a sewer lift station, if the City will install a force main to provide service. Council agreed for the Manager to work out the details on providing service. It was agreed to charge inside connection fees since the owners have petitioned for annexation.

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31: Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31**

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 4, 1997 by the City Council of the City of Marion; and

WHEREAS, GS 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

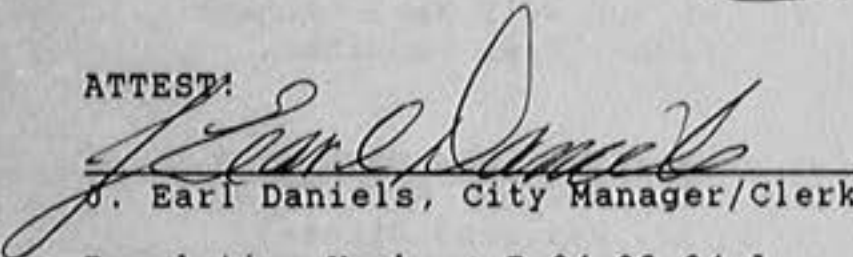
WHEREAS, the City Council of the City of Marion deems it advisable to proceed in response to this request for annexation;

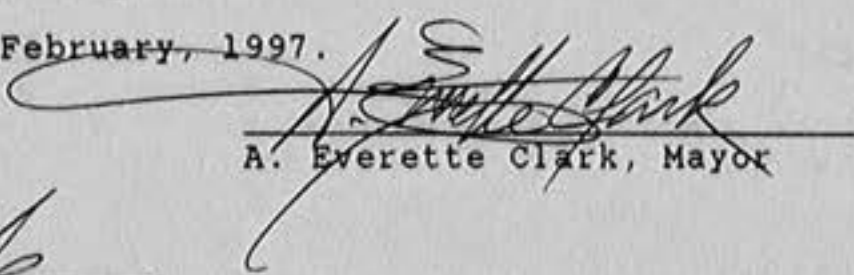
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion, that:

The City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of his investigation.

Adopted this the 4th day of February, 1997.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

Resolution Number: R-94-02-04-1

RESOLUTION SUPPORTING THE RECOMMENDATION OF THE TOURISM 2000 COMMITTEE:

The City Manager presented a Resolution submitted by Ms. Susan Smith, Executive Director of McDowell County Tourism Development Authority, supporting an increase in the budget for the North Carolina Travel & Tourism Division. Upon a motion by Councilman Little, seconded by Councilman Owenby, the City Council voted unanimously to table the matter.

ORDINANCE - AMENDING SECTION 18.223 - CITY CODE: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

**CITY OF MARION
NORTH CAROLINA
ORDINANCE
AMENDING SECTION 18.223
MARION CITY CODE**

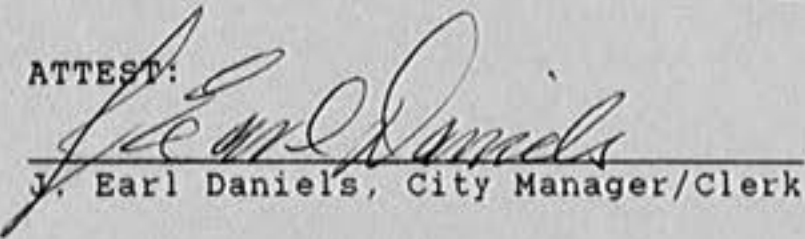
BE IT ORDAINED by the City Council of the City of Marion, North Carolina as follows:


Section 1. That Section 18.223 of the Code of Ordinances, City of Marion, North Carolina, is amended to read as follows:

(15) In the area between the curb/street edge and a public sidewalk.

Adopted this the 4th day of February, 1997.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

Ordinance Number: O-02-04-97-1

MARION POLICE DEPARTMENT - GRANT APPLICATION: Chief Tom Pruett presented Council with a request to apply for a grant to provide a full-time school resource officer to provide services at East Junior High School.

The program would be implemented by the Marion City Police Department at no cost to the City. The Officer's salary and benefits, equipment and uniforms will be purchased through grant funds. The grant would also provide training funds for the Officer.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to authorize Mayor A. Everette Clark to execute any and all documents necessary in applying for the grant.

PLAQUE - HONORING PRESENT AND PAST MAYORS, COUNCILMEN & CITY MANAGERS - LOW BID: The City Manager presented three bids on preparing plaques with the names of past Mayors and Councilmen.

PROPOSALS

February 4, 1997

CREATIVE GALLERY

20x30 Walnut	80 Plates	\$414.00
14x20 Walnut	36 Plates	132.00
Price Includes Engraving		

Total - Plus Tax \$546.00

WNC TROPHIES & FRAMING

20x30 Walnut	60 Plates	\$225.00
14x20 Walnut	36 Plates	150.00
Price Includes Engraving		

Total - Plus Tax \$375.00

BILL GRIFFITH JEWELERS

20x30 Walnut	80 Plates	\$207.00
14x20 Walnut	36 Plates	66.00
Remove & Replace Plates		141.00
Engrave Name Plates		282.00
Engrave Head Plates		20.00

Total - Less Tax \$716.00

51 Plates Needed Through Present Board
26 Plates Needed Through Present Mayor
The City Council accepted the low bid submitted by in the amount of \$375.00. Councilman Edwards suggested that a plaque also be prepared with the names of past City Managers.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the meeting was adjourned at 9:05 P.M.

A. Everette Clark
A. Everette Clark, Mayor

ATTEST:

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, February 18, 1997 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.

Mayor Clark advised that Mayor Pro Tem Steve Little was in Raleigh handling a Court Case.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Robert Swafford, News Reporter, The Independent News; Mr. James Bright, News Reporter, WMXF Radio; Gail Sewell, News Reporter, WBRM Radio.

GUESTS PRESENT: Mr. Bruce Alkire, 15 Viewpoint Drive, Marion, North Carolina 28752; Marc Perez, 352 Hillside Drive, Marion, North Carolina 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the Minutes of the January 30, 1997 Town Meeting and the February 4, 1997 City Council meeting.

PUBLIC HEARING - PERMANENTLY CLOSING A PORTION OF OLD BOWER AVENUE: The City Manager opened the Public Hearing.

Mr. Bruce Alkire of Viewpoint Drive was present for this meeting. He asked if the closing would effect that portion of Bower Avenue between Hillside Drive and North Main Street. He was advised that it would not. He stated that he had no objections then.

The City Manager closed the Public Hearing.

ORDINANCE - PERMANENTLY CLOSING A PORTION OF OLD BOWER AVENUE: The City Manager presented Council with an Ordinance prepared by Mr. Marc Perez Attorneys, Dameron and Burgin.

Upon a motion by Councilman Edwards, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance:

CITY OF MARION

ORDINANCE PERMANENTLY CLOSING A PORTION OLD BOWER AVENUE

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

Section I. THAT, WHEREAS the City Council of Marion, North Carolina, at its regular meeting on January 7, 1997, adopted a Resolution declaring its intent to permanently close a portion of Old Bower Avenue, hereinafter described, and calling for a public hearing on the question; and

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

WHEREAS, A public hearing was duly held in the Council Chamber on February 18, 1997, at which no owner of property adjoining the portion of Old Bower Avenue intended to be closed appeared to express opposition to the closing; and

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

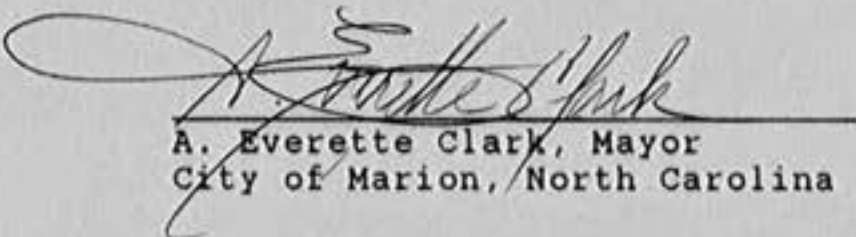
Section II. IT IS, THEREFORE, ORDAINED AND ORDERED that the portion of Old Bower Avenue as shown on the map of the property of Charles T. Clyburn and Linda L. Clyburn, as shown on that certain unrecorded plat of survey prepared by Suttles Surveying, P.A., dated May 22, 1996, which portion of Old Bower Avenue is described by metes and bounds in the resolution of Marion City Council Relative to Closing Old Bower Avenue, adopted on January 7, 1997, and which metes and bounds described is incorporated by reference as if fully set forth herein, is hereby, permanently closed;

PROVIDED, HOWEVER, that the City of Marion reserves the permanent right and easement to maintain, repair and replace all water and sewer and utility lines of the City of Marion which are now located upon or under, or which pass through or over, the portion of Old Bower Avenue described herein.

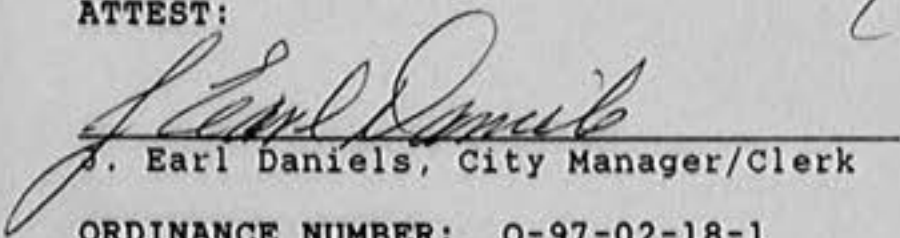
Section III. IT IS FURTHER ORDERED that a certified copy of this Ordinance and Order shall be filed in the Office of the Register of Deeds for McDowell County, North Carolina, as required by the provisions of North Carolina General Statutes 160A-299.

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

Adopted February 18, 1997.


A. Everette Clark, Mayor
City of Marion, North Carolina

ATTEST:


J. Earl Daniels, City Manager/Clerk

ORDINANCE NUMBER: O-97-02-18-1

CERTIFICATE OF SUFFICIENCY - ANNEXATION - PROPERTY OWNED BY R.W.C. INVESTMENTS ON STROUD STREET: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to accept the following Certificate of Sufficiency:

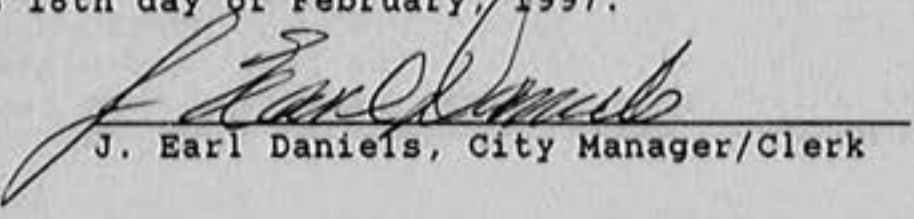
CERTIFICATE OF SUFFICIENCY

To the City Council of the City of Marion, North Carolina:

I, J. Earl Daniels, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion, this 18th day of February, 1997.

SEAL


J. Earl Daniels, City Manager/Clerk

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G. S. 160A-31: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adopt the following Resolution:

**CITY OF MARION
NORTH CAROLINA
RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION
OF ANNEXATION PURSUANT TO G.S. 160A-31**

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the City Hall, 200 North Main Street, at 7:00 P.M., Tuesday, March 18, 1997.

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

BEGINNING at a point in the Eastern margin of Stroud Street (State Road 1183), said point standing North 53 degs. 22 mins. 39 secs. West, 4.47 ft. from the Northeastern corner of the R. V. Horton tract, as described in Deed Book 182, at Page 1, in the Office of the Register of Deeds for McDowell County, North Carolina; and runs thence from said BEGINNING point and with the Eastern margin of Stroud Street, fourteen calls as follows:

- (1) North 33 degs. 19 mins. 34 secs. East, 22.44 ft. to a point;
- (2) North 37 degs. 08 mins. 01 secs. East, 20.99 ft. to a point;
- (3) North 39 degs. 00 mins. 48 secs. East, 25.42 ft. to a point;
- (4) North 43 degs. 09 mins. 22 secs. East, 13.07 ft. to a point;
- (5) North 47 degs. 08 mins. 38 secs. East, 27.30 ft. to a point;
- (6) North 51 degs. 23 mins. 48 secs. East, 19.44 ft. to a point;
- (7) North 53 degs. 05 mins. 29 secs. East, 56.75 ft. to a point;
- (8) North 51 degs. 44 mins. 55 secs. East, 26.60 ft. to a point;
- (9) North 46 degs. 24 mins. 09 secs. East, 23.39 ft. to a point;

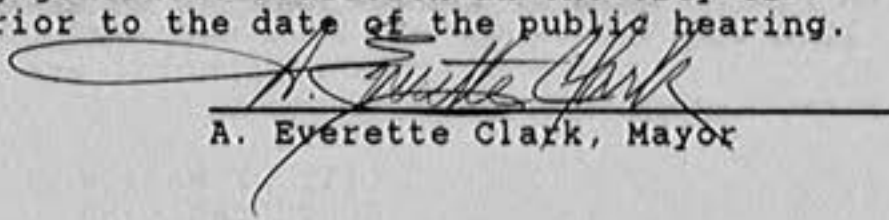
- (10) North 43 degs. 07 mins. 32 secs. East, 19.44 ft. to a point;
- (11) North 39 degs. 15 mins. 20 secs. East, 20.81 ft. to a point;
- (12) North 23 degs. 41 mins. 08 secs. East, 21.70 ft. to a point;
- (13) North 24 degs. 34 mins. 37 secs. East, 33.20 ft. to a point;

(14) and North 64 degs. 52 mins. 44 secs. East, 8.11 ft. to a point where the Eastern margin of Stroud Street intersects the Western margin of Ashworth Road (State Road 1168); thence with the Western margin of Ashworth Road; five calls as follows:

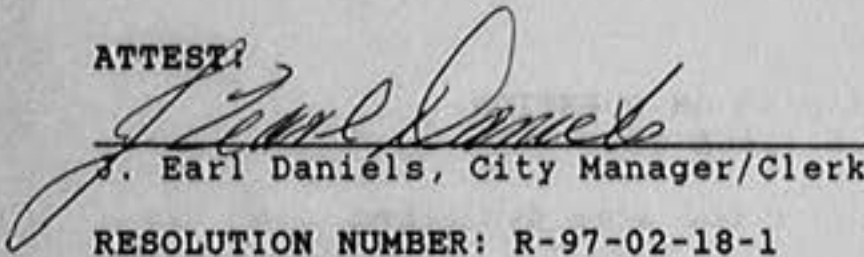
- (1) South 53 degs. 14 mins. 30 secs. East, 12.26 ft. to a point
- (2) South 12 degs. 26 mins. 58 secs. East, 25.37 ft. to a point;
- (3) South 01 deg. 39 mins. 36 secs. East, 44.28 ft. to a point;
- (4) South 01 deg. 34 mins. 04 secs. East, 41.35 ft. to a point;
- (5) and South 00 degs. 38 min. 01 secs. East, 73.75 ft. to a point.

Said point marking the Northermost corner of the Ruby E. Parker tract, as described in Deed Book 248, at Page 320, McDowell County Registry: thence with the Parker Line, South 54 degs. 21 mins. 30 secs. West, 197.76 ft. to a point in the Horton Line: thence with the Horton Line, North 53 degs. 22 mins. 39 secs. West, 104.85 ft. to the point and place of BEGINNING, containing .79 acres, more or less, according to a survey by R.L. Greene Surveying and Mapping, dated December 23, 1988, and entitled "William R. Goacher."

Section 3. Notice of the public hearing shall be published in the McDowell News, a newspaper having general circulation in the City of Marion, at least ten (10) days prior to the date of the public hearing.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

RESOLUTION NUMBER: R-97-02-18-1

COMMUNITY DEVELOPMENT BLOCK GRANT ADVISORY BOARD - REQUEST FOR APPOINTMENT:

The City Manager presented a request from Glenn Rhodes, Economic Development Coordinator for Isothermal Planning and Development Commission requesting the following persons be appointed to the City of Marion's Community Development Block Grant Advisory Board:

Lovina Smith, City Planner
Annie F. Harkelrode, Project Participant
Mary Ann Wilkerson, Project Participant
Rathie Murphy, Project Participant
Mary Jo Swepson, Project Participant
Edith Owens, Project Participant

Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, those members of Council present voted to approve the request as recommended by Mr. Glenn Rhodes.

CITY OF MARION TREE BOARD - NORTH GARDEN STREET PROJECT - REPORT TO

COUNCIL: The City Manager presented a memo to Council from Ms. Debi Laughridge, who serves as Secretary to the Tree Board, advising that the Tree Board met with residents of North Garden Street on Monday, February 17, 1997 to discuss what type trees they prefer to replace the trees removed by Duke Power Company at the request of the City.

Council was advised that Mr. Glen Sherlin, Public Works Director, has flagged various locations along North Garden for placement of the new trees. It was recommended that twelve trees be planted along the street.

It was the recommendation of the residents that "three flower maples" be planted along the street.

A quote was prepared by purchasing Agent, Sharon Hogan from a local Nursery in McDowell County. The cost per tree would be \$69.00 including delivery.

Mr. Glen Sherlin, Public Works Director, advised that he would feel more comfortable with this choice of tree if we had more information on the root system. He expressed his concern with roots getting into the sewer lines, undermining walls, sidewalks and curb and gutter and causing future problems.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to table the purchase of these trees, until more information is presented to Council concerning the root system of this type of tree.

WATER BILL - REQUEST FOR TIME PAYMENT PLAN - C. BARTLETT: Ms. Connie Bartlett appeared before Council advising that she was recently laid-off from Galey and Lord Mill and has not been able to pay her water bill.

Ms. Bartlett, as of this date, owes \$87.58.


Mayor Clark suggested that Ms. Bartlett contact someone with the McDowell County Department of Social Services or one of the other agencies in the County, who assist persons having financial difficulties.

Councilman Cuthbertson asked how long she had been a resident of the county. She replied for several years. He advised that she may qualify for help from the Corpening Foundation if help is not available through Social Services.

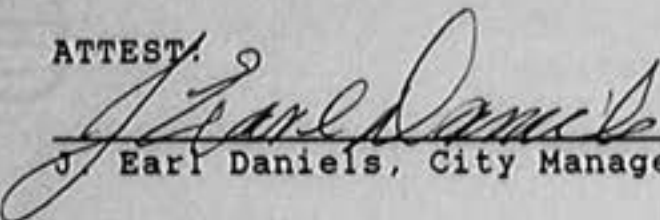
COUNCILMEN COMMENTS:

Councilman Cuthbertson advised that the GDS Garbage truck is strowing trash along the streets and asked that they be notified. He also informed Council that the mirror located at the intersection of Railroad Street and Willow Street has been broken again and needs to be replaced.

ADJOURNMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adjourn at 8:25 P.M.


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, March 4, 1997 at 6:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

Mayor Clark advised that Councilman Edwards was tied up in a Court Case and would be late for this Meeting.

Councilman Edwards arrived for this meeting at 6:50 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Buck Byrd, Chief Water Filter Plant Operator; Tom Milligan, Fire Chief; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Derek Poteat, News Reporter; the Independent News; Ethel Kanipe, Don Collins, Brenda Williams, Chet Effler, Ken Phillips, Gaye Noblitt, Mike Shelton, Scott Spratt, Jeff Porter, Jason Gardner, Ric Hinson and Johnny Patton, Marion Police Department.

GUESTS PRESENT: Ashley Collins, Marion, N.C. 28752; Carroll Widenhouse, 231 Hidden Acres, Marion, N.C. 28752; Wendell Pennington, 824 Veterans Drive Extension, Marion, N.C. 28752; Terry Smith, 186 Parker Padgett, Old Fort, N.C. 28762.

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 February 18, 1997 meeting.

Mayor Clark advised that he had recently attended a picnic with officers of the Marion Police Department held at the Marion Police Firing Range property. He informed Council that he requested that Chief Pruett invite several Police Officers to the first City Council Meeting of each month, to give Council Members the opportunity to meet and get to know each Police Officer.

Chief Pruett introduced the Officers present stating that he had asked Officer Ken Phillips to attend this meeting to advise Council of the Departments involvement with the Special Olympics.

Officer Phillips spoke briefly on the Departments involvement with raising money for the Special Olympics in Western North Carolina.

TAX COLLECTOR - REPORT ON UNPAID 1996 REAL PROPERTY TAXES AND REQUEST TO ADVERTISE TAX LIENS ON 1996 REAL PROPERTY TAXES: The City Manager presented Council with a Memo from Ms. Claudia Hill, Tax Collector; advising that the total unpaid Real Property Taxes as of February 28, 1997 was \$73,007.96.

Ms. Hill also requested permission to advertise City of Marion 1996 Real Property Taxes in the McDowell News, on Wednesday, April 23, 1997.

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to accept the report and to set April 23, 1997 as the date to Advertise 1996 Real Property Taxes.

MARION ZONING BOARD - RE-APPOINTMENT OF TWO MEMBERS: The City Manager presented a memo from Ms. Lovina Smith, Planning Director, requesting that Mrs. Glenys Gilbert and Mr. Craig Orange be re-appointed to the Marion Zoning Board, with the term of each expiring January 31, 2000.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to appoint Mrs. Gilbert and Mr. Orange as recommended by the Planning Director.

POLICE FIRING RANGE - REQUEST TO USE - McDOWELL TECHNICAL COLLEGE: Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to approve the following Agreement:

**AGREEMENT
FOR USE OF CITY OWNED PROPERTY**

Name of Facility to Be Used: City of Marion Firing Range

Dates of Proposed Use: To be coordinated with Marion Police Department

Purpose of Use: BLET Firearms Certification,
Marion Police Firearms
Recertification, Concealed
Weapons Class

Number of Persons: 15-20

Effective Dates of Agreement: November 1, 1996 - October 31, 1997

It is hereby agreed by and between City of Marion by and through the City Manager, its duly authorized agent for the purpose of execution hereof; and the undersigned Organization as follows:

1. The above facilities may be used for the above purpose on designated date(s) as agreed by the Marion Police Department. It is agreed and understood that the Marion Police Department and City of Marion have priority on the scheduling of the use of the Firing Range. Should any scheduling conflict arise, McDowell Technical Community College will re-schedule their classes.
2. Use of the City of Marion Firing Range by McDowell Technical Community College will be limited to the following areas of training: Basic Law Enforcement Firearms Certification, Marion Police Firearms Recertification and Concealed Weapons Class.
3. During all training on the Firing Range there will be a minimum of two Instructors present at all times. Instructors will be Firearms Instructors certified by the N.C. Criminal Justice Standards Division. At least one of the Firearms Instructor will be a certified Instructor presently employed by the Marion Police Department and compensated for his/her instructional time by McDowell Technical Community College.
4. A user fee of ten dollars per day will be paid to the City of Marion for each day the College uses the Firing Range, with the exception of training for the Marion Police Department, in which case the user fee will be waived. Any damages to the Firing Range while being used by McDowell Technical Community College will be repaired by or replaced at the expense to the college.

full amount contributed by the CITY OF MARION to the project which is the subject of the AGREEMENT, (See paragraphs 7,8,9, and 10 of the AGREEMENT); and

WHEREAS TERRY SMITH agrees to be bound to the provisions of paragraphs 7,8,9, and 10 of the AGREEMENT; and

WHEREAS TERRY SMITH acknowledges that he is and will remain the owner of the real property upon which utility lines, apparatus and improvements will be constructed and TERRY SMITH agrees to be bound to the provisions of the AGREEMENT contained in paragraphs 12 and 13 thereof;

NOW THEREFORE, in consideration of the mutual covenants and promises set forth in the original AGREEMENT, which AGREEMENT is incorporated by reference as if fully set forth herein, the parties to this ADDENDUM hereby agree as follows:

1. TERRY SMITH agrees to reimburse to the CITY OF MARION contributed by the CITY OF MARION to the project. The amount so reimbursed shall be a minimum of \$12,500.00 (see the Application). Therefore, TERRY SMITH agrees to pay the CITY OF MARION the following amounts according to the following schedule:

January 15, 1997	\$3,125.00
January 15, 1998	3,125.00
January 15, 1999	3,125.00
January 15, 2000	3,125.00

By signing below, both parties agree to the receipt and payment of the initial installment.

2. While TERRY SMITH and the CITY OF MARION anticipate an expense of \$12,500.0, TERRY SMITH acknowledges the potential for increased expense in connection with the project. TERRY SMITH understands that the Grant contribution amount is fixed and the CITY OF MARION is expected to pay any amount which exceeds the Grant contribution amount; therefore, TERRY SMITH agrees to reimburse to the CITY OF MARION not only the \$12,500.00 referred to above, but also any additional "out-of-pocket" expense paid by the CITY OF MARION over and above \$12,500.00 in connection with the project.

3. "Out-of-pocket" expense, for purposes of this Agreement, specifically excludes salaries and benefits paid to CITY OF MARION Employees and all cost associated with use of CITY OF MARION equipment. Otherwise, "out-of-pocket" expense includes all cash outlays by the CITY OF MARION in connection with and attributable to project completion.

4. TERRY SMITH agrees to reimburse the CITY OF MARION for all additional "out-of-pocket" expense of the CITY OF MARION in equal annual installments. If the anticipated expense exceeds \$12,500.00, then TERRY SMITH agrees to reimburse the CITY OF MARION for all additional "out of pocket expense" in equal annual installments, due at the same times as the regular installment payments provided for above. If the total expense of the CITY OF MARION in connection with this project exceeds 12,500.00, then the CITY OF MARION promises to notify TERRY SMITH in writing, at least 15 days before the next payment is due, of the amount of the total additional "out-of-pocket" expense incurred. Accompanying the total amount of the additional "out-of-pocket" expense incurred by the CITY OF MARION shall be an adjusted payment schedule which shall include adjusted and increased payments for the remaining term and which increased payments shall be enough to cover the regular installment (\$3125.00) plus an amount to cover the excess "out-of-pocket" expense. In such event, the adjusted payments will be equal to the sum of \$3,125.00 plus the difference between the actual out of pocket expense and \$12,500.00 as divided by the number of years remaining in the term of repayment.

As an example, if as of December, 1996, the CITY OF MARION expense is still anticipated to be the minimum expense of \$12,500.00, the CITY OF MARION shall send no notice to TERRY SMITH and TERRY SMITH shall be expected to pay an installment of \$3,125.00 by January 15, 1997, to the CITY OF MARION as reimbursement. If by December, 1997, the CITY OF MARION determines that its actual expense in connection with the project exceeds \$12,500.00 by \$300.0, the CITY OF MARION shall deliver the notice of actual "out of pocket" expense and an adjusted payment schedule to TERRY SMITH by January 1, 1998. The adjusted payment schedule will be calculated according to the formula described above and shall reflect repayment terms, of equal annual payments of \$3,225.00 due on the fifteenth of January for the remainder of the term (through January 15, 2000), which amounts shall be enough to cover the current excess and increased out of pocket expenditure of the CITY OF MARION.

5. The CITY OF MARION agrees to do every act in its power to ensure that the project expense does not exceed the anticipated expense.

6. TERRY SMITH agrees to grant and provide the CITY OF MARION with easements over his premises necessary to complete the project described in the Application at no cost to the CITY OF MARION with the exception of the cost necessary to prepare and record the documentation at the McDowell County Public Registry (which expense shall be borne by the CITY OF MARION). Additionally, TERRY SMITH understands that the easements necessary will be a minimum of twenty feet in width and will include provisions to allow the CITY OF MARION to enter the premises to construct, repair and maintain the utilities. Moreover, the easements will allow the CITY OF MARION of Marion to extend the utilities to property owners adjoining TERRY SMITH's premises. Furthermore, TERRY SMITH agrees that he will obtain the signature(s) of any other party with an interest in TERRY SMITH'S premises (e. g. mortgagee) which signature shall be required on the easement agreement in order to insure the CITY OF MARION of unrestricted access to the easement locations.

7. TERRY SMITH agrees that the utility lines, apparatus and all improvements constructed in connection with the project, which improvements, lines and apparatus are located on TERRY SMITH'S premises, will be the sole property of the CITY OF MARION.

8. THE CITY OF MARION releases the corporation known as DESIGNER HARDWOODS, INC., from the provisions of paragraphs 7,8,9,10,12, and 13 of the PROJECT AGREEMENT.

9. This Agreement constitutes a legally enforceable contract and shall be governed by and construed in accordance with the laws of the State of North Carolina.

TERRY SMITH

CITY OF MARION

By: 
A. EVERETTE CLARK, Mayor

ATTEST:


J. EARL DANIELS, Clerk

Date: March 7, 1997

SPRING PAVING PROGRAM - SPRING 1997: The City Manager presented a memo from Mr. Glen Sherlin to Council listing the streets from the City's priority list that he recommends being resurfaced in Spring of 1997:

STREETS	SQ. YDS.	EST. COST
S. Madison St. from State St. to end of maintenance	1,333	\$3,665
Carson St. from W. Court St. to Webb St.	4,822	\$13,260
Robert St. from Fleming Ave. to Park Ave.	5,229	\$14,379
Oak St. from Highland Dr. to Virginia Rd.	1,816	\$4,994
Dogwood Ln. from Fleming Ave. to end of City maintenance	2,611	\$7,180
Martin St. from Oak St. to end of maintenance	1,122	\$3,085
Crawford Terr. beginning at parking lot to end of maintenance	551	\$1,515
E. Fort St. from Logan St. to Academy St.	1,024	\$2,816
Academy St. from Fort St. to W. Court St.	1,125	\$3,093

5. All students participating in training at the Firing Range will have insurance coverage as required during their enrollment process.
6. It is agreed that the Marion City Council and its agents and employees shall not be responsible or liable for any damages resulting from damage to property or bodily injury or death arising out of the aforesaid use, and the undersigned organization hereby agrees to indemnify and hold harmless the Marion City Council and its said agents and employees from any liability or claim of liability for the same, including, but not limited to attorney's fee incurred by said Council, its agents and employees, in defending such claim.

In Witness Whereof, the City and the Organization have executed this AGREEMENT as of this, the 4th day of March 1997.

Marion City Council

By: _____
 J. Earl Daniels _____ Date _____
 City Manager, City of Marion

McDowell Technical Community College

By: _____
 Bryan Wilson _____ Date _____
 Vice President, McDowell Technical Community College

CATAWBA RIVER WASTEWATER TREATMENT PLANT EXPANSION - CHANGE ORDER NO.1:

The City Manager presented a letter from McGill Associates recommending that the City authorize the installation of a french drain system at the Catawba River Wastewater Treatment Plant for an increase in the Contract Price of \$3,910. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted unanimously to approve the Change Order.

TREE BOARD - REQUEST AUTHORIZATION TO PURCHASE AND PLANT TREES: The City Manager presented Council with a memo from the City of Marion Tree Board advising that no information could be found concerning the root system on the three-flower maple tree chosen by the Residents of North Garden Street.

With Councils final approval, the trees will be planted on Arbor Day, Friday, March 21, 1997. The two fifth grade classes of Marion Elementary will be participating in the planting the trees on North Garden Street. Mr. John Reese will give a brief presentation at the school. The two classes will walk to North Garden Street for the tree planting.

The Tree Board is also asking Mayor Clark, the Marion City Council, and the City Manager to attend this tree planting.

Mayor Clark was also asked to present a proclamation during this activity.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Proclamation, and to approve the purchase and planting of the maple trees on North Garden Street.

PROCLAMATION

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal, and

WHEREAS, The City of Marion has been recognized as a Tree City USA by The National Arbor Day Foundation and desires to continue its tree-planting ways,

NOW THEREFORE, The Mayor and the City Council, of the City of Marion, do hereby proclaim March 21, 1997 as

ARBOR DAY

in the City of Marion, and we urge all citizens to support efforts to protect our trees and woodlands to support our City's urban forestry program, and

FURTHER, we urge all citizens to plant trees to gladden the hearts and promote the well-being of present and future generations.

DATED THIS THE 4th DAY OF MARCH, 1997.


A. Everette Clark, Mayor

Steve Little, Mayor Pro Tem

Lloyd Cuthbertson, Councilman

Mike Edwards, Councilman

Billy Martin, Councilman

Cecil Owenby, Councilman

Proclamation Number: P-97-03-04-1

CARROLL WIDENHOUSE - COMMUNITY SERVICE PROJECT: Mr. Carroll Widenhouse and Mr. Wendell Pennington appeared before Council requesting that the Members of the Church of Jesus Christ of Latter Day Saints be allowed to participate in a community service activity. The Church is celebrating its 150th year.

Councilman Owenby advised that Ms. Pendley of Linclon Avenue, who came to Council several times seeking help to install a large tile on her property, comes to his mind.

A discussion followed.

The City Manager was instructed to accompany Mr. Widenhouse and Mr. Pennington to Ms. Pendly's Residence to see if their Church members could possibly do this type of project.

SOLID WASTE ORDINANCE - PROPOSED CHANGES: It was decided to discuss this Ordinance at a future Planning Session.

DESIGNER HARDWOOD - REQUEST TO AMEND AGREEMENT - TERRY SMITH: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Addendum to the Project Agreement Between Designer Hardwoods, Inc. and the City of Marion, North Carolina dated January 6, 1997:

ADDENDUM TO PROJECT AGREEMENT
BETWEEN DESIGNER HARDWOODS, INC. AND THE CITY OF MARION, NORTH CAROLINA
DATED JANUARY 6, 1997.

THIS ADDENDUM is entered into this the 4th day of March, 1997 by and between THE CITY OF MARION and TERRY SMITH.

WHEREAS TERRY SMITH is contemplating selling his interest in the corporation known as DESIGNER HARDWOODS, INC; and

WHEREAS DESIGNER HARDWOOD, INC., desires to be released from liability concerning the provisions of the aforementioned PROJECT AGREEMENT hereafter referred to as "Agreement" and attached hereto insofar as the AGREEMENT requires DESIGNER HARDWOODS, INC. to reimburse the CITY OF MARION for the

full amount contributed by the CITY OF MARION to the project which is the subject of the AGREEMENT, (See paragraphs 7,8,9, and 10 of the AGREEMENT); and

WHEREAS TERRY SMITH agrees to be bound to the provisions of paragraphs 7,8,9, and 10 of the AGREEMENT; and

WHEREAS TERRY SMITH acknowledges that he is and will remain the owner of the real property upon which utility lines, apparatus and improvements will be constructed and TERRY SMITH agrees to be bound to the provisions of the AGREEMENT contained in paragraphs 12 and 13 thereof;

NOW THEREFORE, in consideration of the mutual covenants and promises set forth in the original AGREEMENT, which AGREEMENT is incorporated by reference as if fully set forth herein, the parties to this ADDENDUM hereby agree as follows:

1. TERRY SMITH agrees to reimburse to the CITY OF MARION contributed by the CITY OF MARION to the project. The amount so reimbursed shall be a minimum of \$12,500.00 (see the Application). Therefore, TERRY SMITH agrees to pay the CITY OF MARION the following amounts according to the following schedule:

January 15, 1997	\$3,125.00
January 15, 1998	3,125.00
January 15, 1999	3,125.00
January 15, 2000	3,125.00

By signing below, both parties agree to the receipt and payment of the initial installment.

2. While TERRY SMITH and the CITY OF MARION anticipate an expense of \$12,500.00, TERRY SMITH acknowledges the potential for increased expense in connection with the project. TERRY SMITH understands that the Grant contribution amount is fixed and the CITY OF MARION is expected to pay any amount which exceeds the Grant contribution amount; therefore, TERRY SMITH agrees to reimburse to the CITY OF MARION not only the \$12,500.00 referred to above, but also any additional "out-of-pocket" expense paid by the CITY OF MARION over and above \$12,500.00 in connection with the project.

3. "Out-of-pocket" expense, for purposes of this Agreement, specifically excludes salaries and benefits paid to CITY OF MARION Employees and all cost associated with use of CITY OF MARION equipment. Otherwise, "out-of-pocket" expense includes all cash outlays by the CITY OF MARION in connection with and attributable to project completion.

4. TERRY SMITH agrees to reimburse the CITY OF MARION for all additional "out-of-pocket" expense of the CITY OF MARION in equal annual installments. If the anticipated expense exceeds \$12,500.00, then TERRY SMITH agrees to reimburse the CITY OF MARION for all additional "out of pocket expense" in equal annual installments, due at the same times as the regular installment payments provided for above. If the total expense of the CITY OF MARION in connection with this project exceeds 12,500.00, then the CITY OF MARION promises to notify TERRY SMITH in writing, at least 15 days before the next payment is due, of the amount of the total additional "out-of-pocket" expense incurred. Accompanying the total amount of the additional "out-of-pocket" expense incurred by the CITY OF MARION shall be an adjusted payment schedule which shall include adjusted and increased payments for the remaining term and which increased payments shall be enough to cover the regular installment (\$3125.00) plus an amount to cover the excess "out-of-pocket" expense. In such event, the adjusted payments will be equal to the sum of \$3,125.00 plus the difference between the actual out of pocket expense and \$12,500.00 as divided by the number of years remaining in the term of repayment.

As an example, if as of December, 1996, the CITY OF MARION expense is still anticipated to be the minimum expense of \$12,500.00, the CITY OF MARION shall send no notice to TERRY SMITH and TERRY SMITH shall be expected to pay an installment of \$3,125.00 by January 15, 1997, to the CITY OF MARION as reimbursement. If by December, 1997, the CITY OF MARION determines that its actual expense in connection with the project exceeds \$12,500.00 by \$300.00, the CITY OF MARION shall deliver the notice of actual "out of pocket" expense and an adjusted payment schedule to TERRY SMITH by January 1, 1998. The adjusted payment schedule will be calculated according to the formula described above and shall reflect repayment terms, of equal annual payments of \$3,225.00 due on the fifteenth of January for the remainder of the term (through January 15, 2000), which amounts shall be enough to cover the current excess and increased out of pocket expenditure of the CITY OF MARION.

5. The CITY OF MARION agrees to do every act in its power to ensure that the project expense does not exceed the anticipated expense.

6. TERRY SMITH agrees to grant and provide the CITY OF MARION with easements over his premises necessary to complete the project described in the Application at no cost to the CITY OF MARION with the exception of the cost necessary to prepare and record the documentation at the McDowell County Public Registry (which expense shall be borne by the CITY OF MARION). Additionally, TERRY SMITH understands that the easements necessary will be a minimum of twenty feet in width and will include provisions to allow the CITY OF MARION to enter the premises to construct, repair and maintain the utilities. Moreover, the easements will allow the CITY OF MARION of Marion to extend the utilities to property owners adjoining TERRY SMITH's premises. Furthermore, TERRY SMITH agrees that he will obtain the signature(s) of any other party with an interest in TERRY SMITH'S premises (e. g. mortgagee) which signature shall be required on the easement agreement in order to insure the CITY OF MARION of unrestricted access to the easement locations.

7. TERRY SMITH agrees that the utility lines, apparatus and all improvements constructed in connection with the project, which improvements, lines and apparatus are located on TERRY SMITH'S premises, will be the sole property of the CITY OF MARION.

8. THE CITY OF MARION releases the corporation known as DESIGNER HARDWOODS, INC., from the provisions of paragraphs 7,8,9,10,12, and 13 of the PROJECT AGREEMENT.

9. This Agreement constitutes a legally enforceable contract and shall be governed by and construed in accordance with the laws of the State of North Carolina.

TERRY SMITH

CITY OF MARION

By:

A. EVERETTE CLARK, Mayor

ATTEST:

J. EARL DANIELS, Clerk

Date: March 7, 1997

SPRING PAVING PROGRAM - SPRING 1997: The City Manager presented a memo from Mr. Glen Sherlin to Council listing the streets from the City's priority list that he recommends being resurfaced in Spring of 1997:

STREETS	SQ. YDS.	EST. COST
S. Madison St. from State St. to end of maintenance	1,333	\$3,665
Carson St. from W. Court St. to Webb St.	4,822	\$13,260
Robert St. from Fleming Ave. to Park Ave.	5,229	\$14,379
Oak St. from Highland Dr. to Virginia Rd.	1,816	\$4,994
Dogwood Ln. from Fleming Ave. to end of City maintenance	2,611	\$7,180
Martin St. from Oak St. to end of maintenance	1,122	\$3,085
Crawford Terr. beginning at parking lot to end of maintenance	551	\$1,515
E. Fort St. from Logan St. to Academy St.	1,024	\$2,816
Academy St. from Fort St. to W. Court St.	1,125	\$3,093

Willow St. from Railroad St. to 3,490 \$9,597
end of Willow St.

Snipe St. from W. Court St. to 626 \$1,721
end of maintenance

TOTAL: 23,749 \$65,305

Note: Approved from last year - Bakersville Road Estimated
Cost - \$7,000

Councilman Owenby stated that the section of Street which had been dedicated to the City contingent upon a compaction test on East Grayson Street should be added to this list, and asked if the City had given Mr. Jackson the information he needed to get this test done.

Mr. Glen Sherlin, Public Works Director; advised that Mr. Guy Jackson had received the information, however, he had not presented the City with the compaction test results.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted to accept the list as recommended by the Public Works Director and to include the section of East Grayson that was dedicated to the City, contingent upon the City receiving confirmation of compaction tests meeting City standards.

MCDOWELL COUNCIL ON ALCOHOL & DRUG ABUSE - REQUEST FOR CONTRIBUTION 1997-1998: It was decided to discuss this matter at a future Planning Session.

RESOLUTION - ENDORSING RENOVATION OF THE MARION DEPOT AND PASSENGER RAIL SERVICE: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution:

CITY OF MARION,
NORTH CAROLINA

RESOLUTION

ENDORSING RENOVATION OF THE MARION DEPOT
AND PASSENGER SERVICE TO MARION AND McDOWELL COUNTY

WHEREAS, the State of North Carolina, Department of Transportation, Rail Division has prepared a Summary Report of the Western North Carolina Rail Passenger Study dated January 1997; and

WHEREAS, the Summary Report's Preferred Alternative provides for Rail Passenger Service to Marion and Old Fort in McDowell County; and

WHEREAS, Rail Passenger Service would be very beneficial to the citizens of the City of Marion and McDowell County; and

WHEREAS, there already exists a Marion Depot; and

WHEREAS, this structure can be renovated and additional parking provided.

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

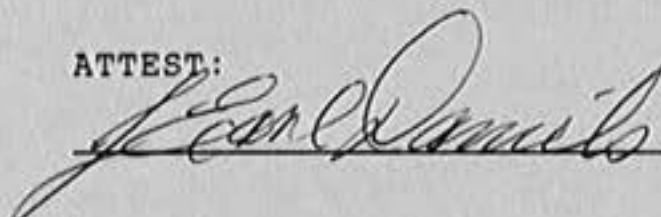
Section 1. That the City Council endorses the renovation of the Marion Depot and the establishment of Passenger Rail Service to Marion and Old Fort in McDowell County.

Section 2. That the City of Marion will work with North Carolina Department of Transportation, Rail Division, in any way possible in the renovation of the Marion Depot and the establishment of Passenger Rail Service to Marion.

Adopted this the 4th day of March, 1997.


A. Everette Clark, Mayor

ATTEST:


Leon Daniels

J. Earl Daniels, City Manager/Clerk

Resolution Number: R-97-03-04-1

SEWER LINE EXTENSION TO SERVE PORTIONS OF VIRGINIA ROAD AND PORTIONS OF LAMAR STREET: The City Manager advised that he had received a request for sewer service for several lots located on both Virginia Road and Lamar Street.

In order to serve these lots it would be necessary to install three manholes and approximately 375 feet of 6 inch pipe.

The estimated cost to contract this work is \$15,000.00.

The lots are located inside the City Limits and this is not a proposed new subdivision.

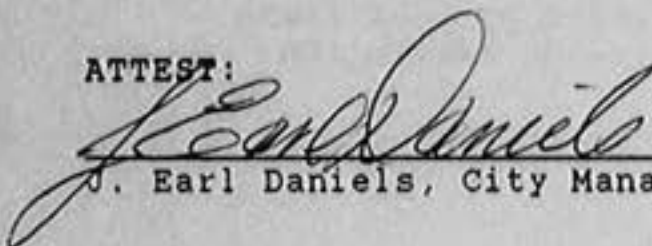
Six sewer taps would provide a total of \$3,750.00.

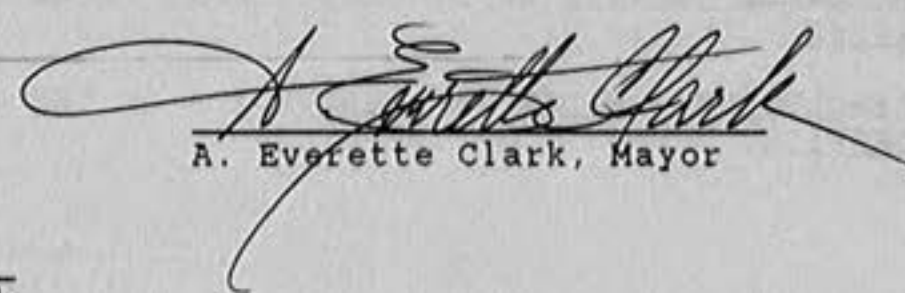
The City would propose to contract the installation of the lines since the City is unable to install part of the work due to the depth of bury.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to proceed with this request and to accept the low bid when contracted.

ADJOURNMENT: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adjourn at 7:50 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 18, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Glen Sherlin, Public Works Director; Tim Squires, Jason Gardner Jeff Porter, Marion Police Department; Jennifer Watson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Derick Poteat, News Reporter, The Independent; Dave Thomas, News Reporter, MIX 104 Radio.

GUESTS PRESENT: Chris Hensley, 136 North Madison Street, Marion, N.C. 28752; Mr. & Mrs. Charles Otto, Route 2, Box 439 A- Marion, N.C. 28752; Brian Kelly, P.O. Box 553 Marion, N.C. 28752; Patrick Kelly, P.O. Box 553 Marion, N.C. 28752; Denise Stamey, 515 State Street, Marion, N.C. 28752; David Clay, State Street, Marion, N.C. 28752; Craig Orange 8 Forest Road Marion, N.C. 28752; Freddie Killough, DBA. ____

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the minutes of the March 4, 1997 meeting.

CITIZEN REQUEST - FOR COUNCIL TO RESCIND ORDINANCE PROHIBITING PARKING BETWEEN SIDEWALK AND STREET - MS. DENISE STAMEY: Ms. Denise Stamey appeared before Council requesting that the Ordinance prohibiting parking between the sidewalk and the Street on State Street be rescinded. Ms. Stamey has a elderly Mother in her home. This strip of grass is used when her Mother is a passenger in the car. Ms. Stamey also stated that she had used this area for the past thirty years and has also mowed and maintained it.

Mr. David Clay, also a resident of State Street, advised that he also uses this area at various times and that he to has maintained the area in front of his residence for the past thirty-five to forty years. Mr. Clay ask for proof that the City of Marion actually has a signed Right of Way for this area.

A discussion followed.

It was decided to refer this matter to the Street Committee. The Street Committee will meet on Wednesday March 26, 1997 at 9:00 A.M.

CITIZEN REQUEST - FOR COUNCIL TO ADOPT AN ORDINANCE TO PROVIDE FOR STOP SIGNS ON NORTH MADISON AT FORT STREET AND NEW STREET - MR. CHRIS HENSLEY: Mr. Chris Hensley appeared before Council with the following petition:

We the undersigned, residents of the City Of Marion and property owners along North Madison Street respectfully request that additional traffic control devices (all way stop signs) be installed at intersections of North Madison Street and East Fort Street, and North Madison Street and New Street. This request is being submitted due to the potentially hazardous conditions as a result of increasing traffic flow and the number of small children currently residing on North Madison Street.

The Petition had fifteen signatures.

This request was also referred to the Street Committee who will be meeting on Wednesday March 26, 1997 at 9:00 A.M.

PUBLIC HEARING ON ZONING REQUESTS: The City Manager opened the Public Hearing and reviewed the items to be discussed. There was no one present in opposition to the zoning matters. The City Manager closed the Public Hearing.

A) REQUEST PROPERTY AT 925 RUTHERFORDTON ROAD BE REZONED FROM R-2 RESIDENTIAL TO C-2 GENERAL BUSINESS: Upon a motion by Councilman Martin, seconded by Councilman Owenby, the City Council voted unanimously to accept the recommendations of the Marion Planning Board to rezone from R-2 General Residential District to C-2 General Business District the property located at 925 Rutherfordton Road.

B) REQUEST AMENDMENT TO ARTICLE VIII, USE REQUIREMENTS BY DISTRICT, SECTION 805, M-1 INDUSTRIAL DISTRICT TO ALLOW TRADELOTS AND FLEA MARKETS AS PERMITTED USES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted unanimously to accept the recommendations of the Marion Planning Board to amend Article VIII, Section 805, M-1 Industrial District by adding to Section 805.3 Special Exceptions. the following:

No. 4. Trade Lots and/or Flea Markets located totally within an existing structure.

C) REQUEST AMENDMENT TO ARTICLE VIII, C-1 CENTRAL BUSINESS DISTRICT AND C-2 GENERAL BUSINESS DISTRICT TO ALLOW SINGLE AND MULTI-FAMILY DWELLINGS AS PERMITTED USES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council voted unanimously to add the following amendments:

803.4 SPECIAL EXCEPTIONS. The following uses are permitted as special exceptions as provided for in Article XII, Section 1202.2:

1. Single or multi-family residential dwelling units in existing structures; provided all units are located on floor levels above or below the adjacent street level. In lieu of any other parking requirements of this ordinance, each dwelling unit shall be provided one off-street parking space. Such space may be located on property separate from the dwelling unit but shall be within a reasonable walking distance of such unit.

804.3 SPECIAL EXCEPTIONS.

3. Single or multi-family residential dwelling units; provided all units are located on floor levels above or below the adjacent street level. In lieu of any other parking requirements of this ordinance, each dwelling

unit shall be provided one off-street parking space. The off-street parking shall be in addition to other required parking for the existing structure and its uses.

MARION POLICE DEPARTMENT - REPORT - LIEUTENANT TIM SQUIRES:

Lieutenant Squires appeared before Council to discuss a conference he recently attended. This program consisted of educating store clerks on how not to sell tobacco products to minors.

Convenient Store Clerks are being encouraged to Card customers who appear to be underage on tobacco sales.

Tobacco products will be monitored by store employees and employees will be penalized for selling tobacco products to minors.

TAX COLLECTOR - REQUEST FOR REFUND TO MR. GREGORY TODD GOUGE: The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector; requesting that Mr. Gregory Todd Gougé be refunded \$627.77.

Mr. Gougé purchased the Golden Fried Chicken building and land, PIN 170217214515, from Marion Associates September 21, 1995. At that time he paid the 1995 City of Marion and McDowell County taxes on the property.

In 1996, Mr. Gougé went to Danny Davis, McDowell County Tax Supervisor. He felt the value of the property was too high, with a valuation of \$245,190.00. After Mr. Davis checked into the matter, it was discovered that property had been billed an incorrect value for 1995 and 1996. The property had been over billed a value of \$114,140.00. The correct value was 131,050.00.

The McDowell County Tax Collector, informed Ms. Hill that the County had refunded Mr. Gougé for 1995.

The 1996 City tax bill was adjusted and paid in full January 3, 1997.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve Ms. Hill's request to refund Mr. Todd Gougé \$627.77 (114,140.00 @ 0.55 per \$100.00 value) for 1995.

PUBLIC HEARING ON ANNEXATION OF PROPERTY ON STROUD STREET: The City Manager opened the Public Hearing. There was no one present to discuss this annexation request.

The Public Hearing was closed.

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

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF MARION, NORTH CAROLINA**

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at City Hall at 7:00 O'Clock, P.M. on the 18th day of March, 1997 and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of the 30th day of June, 1997.

BEGINNING at a point in the Eastern margin of Stroud Street (State Road 1183), said point standing North 53 degs. 22 mins. 39 secs. West, 4.47 ft. from the Northeastern corner of the R. V. Horton tract, as described in Deed Book 182, at Page 1, in the Office of the Register of Deeds for McDowell County, North Carolina; and runs thence from said BEGINNING point and with the Eastern margin of Stroud Street, fourteen calls as follows:

MINUTE BOOK 9 - PAGE 308
 FIRST ITEM
 WAS PLACED IN RESOLUTION FORM
 AND SUBMITTED TO DOT

Duf



CITY OF MARION
 NORTH CAROLINA

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
1705	Pine Grove Street	.16 miles
1706	Morehead Road (includes Georgia Avenue)	.85 miles
1707	Miller Avenue Extension	.30 miles

Adopted this the 18th day of March 1997.

Everette Clark

 E. Everette Clark, Mayor

ATTEST: *Earl Daniels*

 O. Earl Daniels, City Manager/Clerk

R-97-03-18-01

- (1) North 33 degs. 19 mins. 34 secs. East, 22.44 ft. to a point;
- (2) North 37 degs. 08 mins. 01 secs. East, 20.99 ft. to a point;
- (3) North 39 degs. 00 mins. 48 secs. East, 25.42 ft. to a point;
- (4) North 43 degs. 09 mins. 22 secs. East, 13.07 ft. to a point;
- (5) North 47 degs. 08 mins. 38 secs. East, 27.30 ft. to a point;
- (6) North 51 degs. 23 mins. 48 secs. East, 19.44 ft. to a point;
- (7) North 53 degs. 05 mins. 29 secs. East, 56.75 ft. to a point;
- (8) North 51 degs. 44 mins. 55 secs. East, 26.60 ft. to a point;
- (9) North 46 degs. 24 mins. 09 secs. East, 23.39 ft. to a point;
- (10) North 43 degs. 07 mins. 32 secs. East, 19.44 ft. to a point;
- (11) North 39 degs. 15 mins. 20 secs. East, 20.81 ft. to a point;
- (12) North 23 degs. 41 mins. 08 secs. East, 21.70 ft. to a point;
- (13) North 24 degs. 34 mins. 37 secs. East, 33.20 ft. to a point;

(14) and North 64 degs. 52 mins. 44 secs. East, 8.11 ft. to a point where the Eastern margin of Stroud Street intersects the Western margin of Ashworth Road (State Road 1168); thence with the Western margin of Ashworth Road; five calls as follows:

- (1) South 53 degs. 14 mins. 30 secs. East, 12.26 ft. to a point
- (2) South 12 degs. 26 mins. 58 secs. East, 25.37 ft. to a point;
- (3) South 01 deg. 39 mins. 36 secs. East, 44.28 ft. to a point;
- (4) South 01 deg. 34 mins. 04 secs. East, 41.35 ft. to a point;
- (5) and South 00 degs. 38 min. 01 secs. East, 73.75 ft. to a point.

Said point marking the Northernmost corner of the Ruby E. Parker tract, as described in Deed Book 248, at Page 320, McDowell County Registry; thence with the Parker Line, South 54 degs. 21 mins. 30 secs. West, 197.76 ft. to a point in the Horton Line; thence with the Horton Line, North 53 degs. 22 mins. 39 secs. West, 104.85 ft. to the point and place of BEGINNING, containing .79 acres, more or less, according to a survey by R. L. Greene Surveying and Mapping, dated December 23, 1988, and entitled "William R. Goacher."

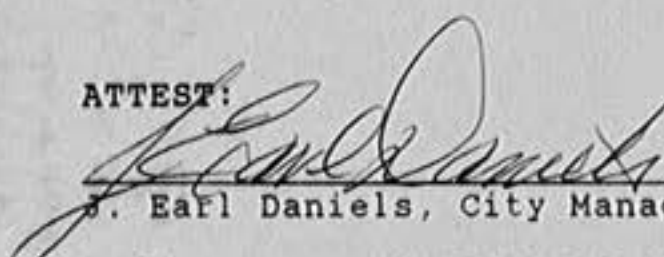
That portion of the street right-of-way of SR 1168 and SR 1183 abutting directly on the petitioned property is included in the area being annexed.


Section 2. Upon and after the 30th day of June, 1997, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1. hereof, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections as required by G.S. 163-288.1.

ADOPTED this the 18th day of March, 1997.

ATTEST:


Earl Daniels, City Manager/Clerk


A. Everett Clark, Mayor

Ordinance No. 0-97-03-18-1

POWELL BILL STREET CHANGES - REQUEST TO TRANSFER CERTAIN STREETS FROM DOT TO CITY MAINTENANCE: The City Manager presented Council with a memo from Glen Sherlin, Public Works Director; recommending the following street to be transferred from the Department of Transportation maintenance to the City of Marion's Street systems:

STREET NAME	SR NUMBER	STREET LENGTH
Pine Grove Road	1705	.16 miles
Morehead Road (Includes Georgia Avenue)	1706	.85 miles
Miller Avenue Extension	1701	.30 miles

Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to approve the recommendation of the Public Works Director as stated above.

LANDSCAPING, CEMETERY AND MOWING BIDS: The City Manager presented Council with the following bid results:

RIGHT-OF-WAY MOWING:

Harolds Lawn Service	\$1750.00 per week
Turf Master	No Bid
Kelly's General Maint.	\$985.00 per week

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to approve the low bid of Kelly's General Maint. of \$985.00 per week.

OAK GROVE CEMETERY MOWING:

Harolds Lawn Service	\$1010.00 per week
Turf Master	No Bid
Kelly's General Maint.	\$824.00

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the low bid of Kelly's General Maint. of \$824.00.

LANDSCAPING MAINTENANCE CONTRACT:

L L Moore Landscaping	\$1,075.00 per month
Longs Tree & Landscaping	No Bid
Harolds Lawn Service	No Bid (came in eight minutes after the bid deadline with a bid)

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to except the bid of L L Moore Landscaping in the amount \$1,075.00.

WATER/SEWER TEMPORARY TAP FEES - REQUEST TO EXTEND: The City Manager advised that Council had adopted an Ordinance on September 3, 1996 providing for Temporary Water/Sewer Connection Fees fro September 9, 1996 through and including March 31, 1997. He asked that Council extend the time period until such time as Council would set new tap fees.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to leave the tap fees at the present rate until such time Council changes it.

RESOLUTION - AMENDING THE RESOLUTION ENTITLED ``FREE WATER/SEWER SERVICE``:

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

RESOLUTION

AMENDMENT TO
FREE WATER/SEWER SERVICE

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

Section 1. That Section 1 of the Resolution entitled RESOLUTION - FREE WATER/SEWER SERVICE, as adopted by the Marion City Council on the 18th day of January, 1994 be deleted and a new Section 1 be added in lieu thereof to read as follows:

Section 1. That all retired volunteer firemen of the Marion/M. A. Fire Departments, having served a minimum of twenty years and all volunteer firemen active and in service prior to June 30, 1994 having served twenty years, continue to receive free water/sewer service at their place of residence, if served by the City Water/Sewer Systems, for the life of the retired volunteer fireman. Upon the death of the fireman, free water/sewer service will end.

Adopted this the 18th day of March, 1997.

ATTEST: 
J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

Resolution Number: R-97-03-18-1

RESOLUTION - SUPPORTING LEGISLATION ON DOWNTOWN REVITALIZATION: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

RESOLUTION

IN SUPPORT OF LEGISLATION PROPOSALS SUPPORTING DOWNTOWN REVITALIZATION

WHEREAS, the Legislative Research Commission has recently completed a study on downtown Revitalization and has sent their report to the 1997 North Carolina General Assembly; and

WHEREAS, the bi-partisan Legislative Study Commission has recommended and introduced a series of Bills in the North Carolina House of Representatives; and

WHEREAS, the revitalization of our state's downtown is of great importance to the current and future economies on our municipalities; and

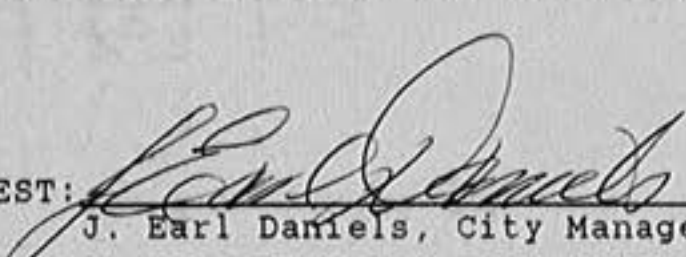
WHEREAS, the revitalization of our Downtown Business District is one of our highest priorities; and

WHEREAS, the Legislative Bills introduced (HB#41, HB#43, HB#44) would greatly promote private economic reinvestment in our Downtown Business District; and

WHEREAS, such reinvestment would generate additional jobs and increased local tax base.

NOW, THEREFORE, BE IT RESOLVED, that the City Council for the City of Marion, North Carolina support and endorse the passage of these Downtown Revitalization Bills, and encourages the support of our local Legislative delegation.

Adopted this the 18th day of March, 1997.

ATTEST: 
J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

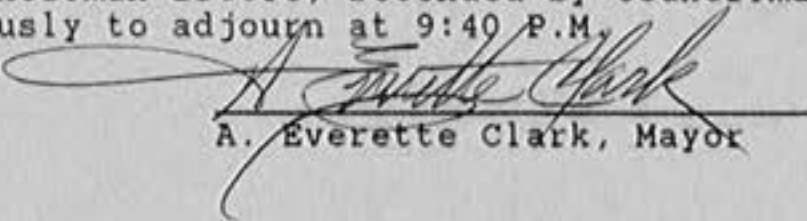
RESOLUTION NUMBER: R-97-03-18-02

MACA - REQUEST FOR FUNDS: The City Manager presented Council with a letter of request from the McDowell Arts and Crafts Association's for \$15,000.00 in operational funding from the City of Marion for FY 1997-98.

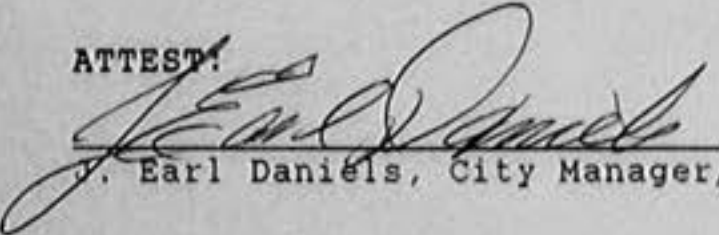
The City Manager was instructed to write a letter to all agencies requesting funding from the City and advise that consideration for funding will be given if funds are available after meeting the City's requirements.

NORFOLK SOUTHERN RAILROAD - DISCUSSION ON DEPOT AND REQUESTED CLOSURE OF CERTAIN STREET CROSSINGS: The City Manager informed Council that on Friday, March 14, 1997, he and Ms. Susan Smith, McDowell Tourism met with Norfolk Southern representatives, Steven McCurdy, Manager-Real Estate; D. A. Gilbert, Manager Safety-Grade Crossing East; and Milton Finley, Asheville office. He advised that the representatives of Norfolk Southern stated that the railroad does not favor the proposed Passenger Rail Service. He informed Council that they would be interested in a trade, if the City would like the depot. The railroad would like to see the grade crossing at Garden Street closed and the grade crossing at Clay Street closed. The Manager advised that he suggested that they construct a bridge at the Garden Street crossing. They were not interested due the cost. The Manager was advised that Council will not accept the closing of the Garden Street Crossing.

ADJOURNMENT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn at 9:40 P.M.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Special Called Session on Tuesday evening, March 25, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Van McKinney, News Reporter, WBRM Radio; and Derick Poteat, News Reporter, The Independent News.

Mayor Clark called the meeting to order.

REQUEST TO LOCATE MICRO-WAVE ANTENNA AT RESERVOIR SITE: The City Manager informed Council that he sent out a written notice to Council and the news media on Friday, March 21, 1997 regarding the Special Called Meeting. A letter from Internet Connections, Unlimited, Inc. was sent out with the notices. The letter read as follows:

21st March 1997

City of Marion
Mr. Earl Daniels, City Manager
Post Office Drawer 700
Marion, North Carolina 28752

RE: Antenna of Spread Spectrum Internet Connection

Mr. Daniels

Internet connections Unlimited is inquiring about placing a antenna on the city property located on reservoir hill. This antenna would supply internet to the county and in exchange for the use of the property Internet Connections would provide the following to the City of Marion at no charge, the charges that would normally be assessed are listed below.

	Per Item	Monthly
1. Internet Access to 10 terminals	\$24.95	\$249.50
2. 30 email accounts	\$2.00	\$60.00
3. Host web page	\$25.00	\$25.00
4. Build Web Site (One Time Charge)		\$250.00

This will be an account that will be renewed on an annual basis. The savings to the City in a years service would be roughly \$4250.00 per year.

We thank you for your support and interest in our business.

Sincerely,

Internet Connections Unlimited, Inc.

J. Douglas Suttles,
President

The City Manager informed Council that Mr. Ken Suttles and Mr. Doug Suttles were present to request permission to locate two micro-wave antennas at the reservoir site on Summit Street. Each screen type dish antenna is twenty-four inches in diameter and weighs about four pounds each. They wish to install the antennas to use with their internet business in the City of Marion. The Manager presented a letter from Whitley's Communications Service, Inc. from Asheville, N. C. advising that the antennas proposed would not interfere with radio communications with the Police and Public Works Departments. The letter also addressed the possible need for an equipment rack in an existing building, with cable lead-in and a minimal amount of electrical power for the equipment. The Manager advised that Mr. Ken Suttles had requested Whitley's Communications Service, Inc. provide the letter.

The City Manager advised that his comments were that this would be public facilities being operated by a private business for profit and that the City Attorney might need to address the position the City would be placed in if another business or several other businesses wanted to do the same type thing. He advised that there is a move by the School System to install some micro-wave antennas and work with a non-profit organization called MAIN to provide internet services for the schools.

Mr. Ken Suttles advised Council that in October 1996 the phone companies provided budget figures for charges to Internet Connections to provide internet services to McDowell County. He stated that at that time there was not a provider. He stated that the phone companies were very helpful but that they did not tell all the costs involved. He advised that MCI is the internet provided and GTE handles the local lines. He told Council that when they received the first bill in January it was \$12,000 and some odd dollars from MCI. He stated that the thing that they did not know about was the "loop back charge", which he said was something like a sur-charge. Mr. Suttles explained that by locating two antennas on the reservoir property their firm could transmit data between their Morganton Office - Walker Top Mountain - the reservoir property - and the Old Belks Building. This would eliminate the need to deal with MCI and provide a considerable savings to their firm. Mr. Suttles advised that the plug would be pulled by MCI on April 5, 1997 and that something had to be done prior to that time in order for them to continue their service.

Councilman Little briefed Council concerning some meetings he had attended at the NLC Conference in Washington, D. C. regarding location of antennas in communities.

Councilman Little stated that it would certainly be better to have a place for antennas to be located rather than have them scattered throughout the community. He gave several examples of locations already having this problem.

Following a lengthy discussion, it was generally agreed that the city would allow the two antennas to be installed on an existing pole, or a new pole to be installed without cost to the city, with the understanding that an agreement would be prepared holding the applicants liable for any and all damages of any kind and setting out the terms as agreed by Council.

It was also agreed by Council that consideration would be given all applicants submitting applications for placement of antennas on the property as long as it does not interfere with other city uses of the property.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to allow the antennas to be installed on an existing pole, or pole to be installed, all at no cost to the City taxpayer and that an agreement be prepared setting out the terms of service for a period of five years with details to be worked out by the City Manager and Public Works Director with regard to location, liability and services offered the City.

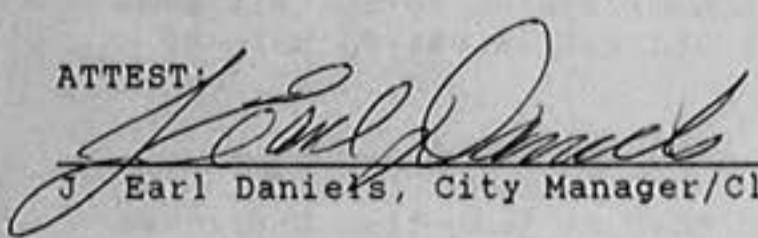
SOLID WASTE DISCUSSION: The City Manager reviewed with Council proposed changes to the city's commercial and residential garbage and recycling

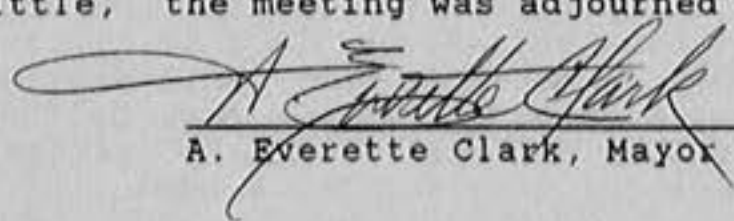
programs. Thirty-seven, eight cubic yard recycling containers are scattered throughout the commercial districts. The City Manager informed Council that the number of tons picked up by GDS from the recycling containers has dropped considerable from approximately 30 tons at the beginning down to 11 to 14 tons per month. The cost to the city for this program exceeds \$30,000 per year. It was agreed that a meeting should be held with the merchants concerning both commercial garbage pick up and commercial recycling. The City Manager informed Council that Burke County will begin having their solid waste hauled in January 1998 and at that time they will close their landfill. He stated that Burke County had been receiving solid waste from McDowell County but that would cease at that time. McDowell County has taken bids on having their solid waste hauled to another site. The City Manager informed Council that it was his understanding, from a conversation with the County Manager, that the tipping fee charged by the County for commercial waste would not increase. He advised that the cost to the County is going up about \$7.00 per ton. He informed Council that part of that cost increase may be eventually passed on to the City. The City is now paying the County \$32.00 per ton tipping fee for commercial waste. The Manager advised that the contract with GDS for commercial recycling needs to be re-negotiated or it will be automatically renewed for three years under the terms of the existing contract.

The Manager was instructed to proceed with drafting proposed changes to the solid waste regulations for Council to review.

ADJOURNMENT: There being no further business, upon a motion by Councilman Martin, seconded by Councilman Little, the meeting was adjourned at 9:20 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everett 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, April 8, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

BOARD MEMBERS PRESENT: Mayor, A. Everett Clark; Mayor Pro Tem Steve Little, Councilmen Lloyd Cuthbertson, Billy Martin and Cecil Owenby.

Mayor Clark advised that Councilman Edwards would not be present for this meeting due to being out of town.

Councilman Billy Martin arrived for this meeting at 7:25 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Van McKinny, News Reporter, WBRM Radio; Derick Poteat, News Reporter, The Independent; Bill Shaw, News Reporter, MIX 104 Radio.

GUESTS PRESENT: Chris Hensley, 136 North Madison Street, Marion, N.C. 28752; Garland Franklin, Spring Street, Marion, N.C. 28752; Gary Arnold 615 Oak Street Marion, North Carolina 28752; Gary Hart HSI, Asheville, N.C.; Mark Cauthen 118 Martin Street Marion, N.C. 28752; Chuck Cavanaugh 215 North Madison Street Marion, N.C. 28752; Mr. & Mrs. Jim Brown, North Madison Street Marion, N.C. 28752; Ann West North Madison Street Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to approve the Minutes of the March 18th and March 25th City Council Meetings.

MICROWAVE ANTENNA - RESERVOIR SITE: Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to rescind the motion made at the March 25, 1997 Special Called Session of City Council permitting microwave antennas, owned by private enterprise, to be placed on the City reservoir property.

CITIZEN REQUEST - FOR COUNCIL TO RESCIND ORDINANCE PROHIBITING PARKING BETWEEN SIDEWALK AND STREET - MS. DENISE STAMEY - REPORT FROM STREET COMMITTEE: Councilman Owenby advised that the Street Committee did not recommend rescinding the Ordinance prohibiting parking between the sidewalk and the curb but discussed authorizing the Chief of Police to allow parking in certain "no parking Zones" for short periods of time for funerals, weddings, and other similar special purposes.

A discussion followed.

The City Manager was directed to prepare a new Ordinance allowing parking by request for short periods of time, in "no parking zones", to be authorized by the Chief of Police.

CITIZEN REQUEST FOR COUNCIL TO ADOPT AN ORDINANCE TO PROVIDE FOR STOP SIGNS ON NORTH MADISON AT FORT STREET AND NEW STREET - MR. CHRIS HENSLEY - REPORT FROM STREET COMMITTEE:

The City Manager informed Council that the Street Committee did not recommend a four way stop at New Street or a three way stop at Fort Street. Councilman Owenby advised that locating the additional stop signs may create a greater problem.

Several residents of North Madison Street were present and insisted that Council take some action to slow traffic down and make the street safer for their children.

A lengthy discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to adopt the following Ordinance.

CITY OF MARION
TRAFFIC SCHEDULE
STOP SIGNS
NORTH MADISON STREET

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

Section 1. That Section 18-127 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:


ST. NAME	SEC.	1982	REG.	REG.	REG.	APPLICATION
		CODE	TYPE	LIMIT		
		APP.				

MADISON, 18-142	109	STOP	STOP	NEW STREET		
NORTH				NORTHERLY		


MADISON, 18-142	109	STOP	STOP	NEW STREET		
NORTH				SOUTHERLY		

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

Adopted this the 8th day of April, 1997.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-97-04-08-01

MCDOWELL COUNTY BOARD OF ELECTIONS - REQUEST TO USE COMMUNITY BUILDING FOR CITY ELECTIONS: The City Manager presented Council with a letter from Ms. Brenda Hemphill, Director of Elections, requesting the City Election Precinct be relocated from the Marion Fire Department to the Marion Community Building.

The City Manager advised that the Kiwani's used the Community Building every month and the Election date fell on the date they are scheduled to use it.

A discussion followed.

It was decided to ask permission from the Members of the Kiwani's Club, if they wished to give up this date, before a decision was made by Council.

ORDINANCE - STOP SIGN - 4TH STREET CLINCHFIELD - REPORT - STREET COMMITTEE: The City Manager informed Council that the Street Committee recommended that a Stop sign be located on 4th Street at its intersection at 6th Street in Clinchfield. Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, those members of Council present voted unanimously to approve the following Ordinance:

CITY OF MARION
TRAFFIC SCHEDULE
STOP SIGN
4TH STREET
CLINCHFIELD


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

Section 1. That Section 18-127 of the City of Marion Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is hereby amended by adding the following:

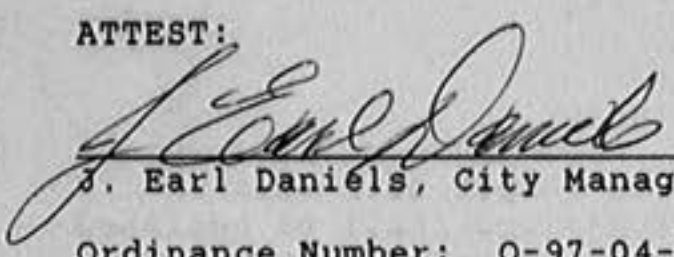
ST.NAME	SEC.	1982	REG.	REG.	REG.	APPLICATION
		CODE	TYPE	LIMIT		
		APP.				
4TH ST.	18-142	109	STOP	STOP	6TH STREET, EASTERLY	
CLINCHFIELD						

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

Adopted this the 8th day of April, 1997.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-97-04-08-02

ORDINANCE - AMENDING SEWER USE ORDINANCE: The City Manager presented Council with a Letter from Nadine Blackwell, Vice President of Hydro Management Services, Inc., advising that the Division of Environmental Management is requiring some modifications to the verbiage on Page 12 of the Sewer Use Ordinance.

The change in Section B. and Section D. on page 12 will read as follows:

CITY OF MARION
NORTH CAROLINA

ORDINANCE
AMENDING THE CITY OF MARION
SEWER USE ORDINANCE

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

Section 1. That Section 1, (34) B and (34) D on page 12 of the City of Marion Sewer Use Ordinance is hereby deleted and new Section 1, (34) B and (34) D inserted in lieu thereof to read as follows:

- (34) B. Technical Review Criteria (TRC) violations.
Thirty-three percent or more of the measurements are equal to or exceed the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:


For conventional pollutants.

BOD, TSS, fats, oil and grease TRC 1.4

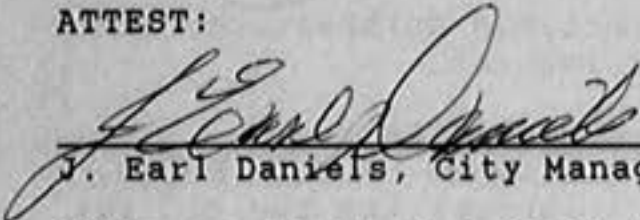
For all other pollutants TRC = 1.2

- (34) D. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

Adopted this the 8th day of April, 1997.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-97-04-08-03

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to adopt the Amendment to the Sewer Use Ordinance as stated above.

ABC BOARD - APPOINT ONE MEMBER TO THREE YEAR TERM: The City Manager presented Council with a letter from Mr. Robert Teeter, Chairman of the Marion Alcoholic Beverage Control Board recommending that Ms. Doris Hill be re-appointed to another three year term on the Board.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to re-appoint Ms. Doris Hill to another three year term on the Board. Term to end April 18, 2000.

Listed below is the ABC Board members and their terms of office:

Harvey Parker	(3) year term to end - April 18, 1998
Robert Teeter	(3) year term to end - April 18, 1999
Doris Hill	(3) year term to end - April 18, 2000

OAK GROVE CEMETERY - NUMBER OF CREMATION URNS ALLOWED IN ONE GRAVE AND/OR ONE CRYPT: The City Manager advised that he had been questioned several times recently in reference to the number of cremation urns allowed in a grave and/or crypt.

The City Manager asked Council for direction on how many urns will be allowed in a grave and/or mausoleum crypt.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to refer this matter to the Cemetery Committee.

MARION POLICE DEPARTMENT - REQUEST TO OFFER WOMEN'S SAFETY CLASS: The City Manager presented Council with a memo from Tom Pruett, Chief of Police, requesting authorization for the Police Department to pursue a class entitled "Safety For Women". Many women in the community have expressed an interest in attending this class. Topics to be discussed in this class would be how to prevent becoming a victim, domestic violence, sexual harassment, self-defense and several others.

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

MARION POLICE DEPARTMENT - REQUEST FOR TRAINING - OFFICER COLLINS: The City Manager presented Council with a memo from Officer Don Collins, requesting permission to attend a National DARE Officer's Conference in Utah scheduled for July 8, 1997 through July 12, 1997.

The McDowell County School System, has offered to pay for over half of the cost to send Officer Collins to the conference.

Listed below is the total cost of the conference:

Flight -	\$300.00	(paid by the school system)
Motel -	\$320.00	(half paid for by the school system)
Food -	\$185.00	
Registration -	\$150.00	(paid for by the school system)

Total cost - \$995.00

Total cost to the department - \$345.00

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

SPRING PAVING PROGRAM - ACCEPT LOW BID THOMPSON CONTRACTORS:

The City Manager presented an Action Request Form from Ms. Sharon Hogan, Purchasing Agent, requesting Council's approval to accept the low bid for the 1997 Spring Paving Program from Thompson Contractors, Inc.

Bids received were as follows:

Callahan Paving - No Bid
Johnson Paving - No Bid
Paving Enterprises - No Bid

Thompson Contractors -

1" Resurface per sq yard	\$2.65
1 1/4" Resurface per sq yard	\$3.12
1 1/2" Resurface per sq yard	\$3.70

2" New Surface - approximately 1400 sq yds	Price to include any need for finish gradework
Price per sq yd	\$4.92

6" Base Stone

Installed, graded and compacted per sq yd \$4.68

The City of Marion would be responsible for materials and labor used to raise manhole covers, valve boxes, etc., as needed.

All work must be completed between April 21, 1997 and April 26, 1997. Approximately 5200 sq yds (Robert Street) must be completed on Saturday due to traffic flow.

All work will be performed under city specifications and requirements.


A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to accept the bid from Thompson Contractors Inc.

ADJOURNMENT: There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the meeting was adjourned at 8:45 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clerk


A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, April 22, 1997 at 7:00 P.M. at the East Marion United Methodist Church Fellowship Hall at 701 Baldwin Avenue.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Gail Sewell, News Reporter, WBRM Radio; Derick Poteat, News Reporter, The Independent.

GUESTS PRESENT: Ms. E. Hollifield, 25 Hunt Street; Willard Toney 510 5th Street; Travis Marshall 5001 Dantonville Ct., Knightdale, N. C.; Cline W. Pyatt, East Marion Methodist Church - National Guard; Mr. & Mrs. Wayne Pittman, Rt. 1, Box 162, Clifford Seagle; Arnold Sparks; Garland Franklin; Phil Tate, North Main Street; Mr. & Mrs. Gene Smith, N.C. Hwy. 226 - South; David Ricketts, McDowell County School Superintendent; Wayne Silvers, McDowell County Schools; Wayne Sprouse, 3rd Street.

OPENING STATEMENT: Mayor Clark opened the meeting and thanked the members of East Marion United Methodist Church for allowing the Marion City Council to hold a meeting in their Fellowship Hall.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Edwards, those members of Council present voted to approve the Minutes of the April 8, 1997 City Council Meeting.

POLICE PATROLS - WILLARD TONEY: Mr. Willard Toney said that he wished to thank the City for the services provided and the improvements made since East Marion was annexed. He informed Council that some people in the community do complain that Police cars need to patrol more often on side streets. He advised that some citizens may not recognize an unmarked car patrolling. Chief Pruett advised that patrol cars are supposed to be on every street in the City at least once every twelve hours and that sometimes an unmarked car has been used.

WATER PRESSURE PROBLEM - CLINE PYATT: Mr. Cline Pyatt advised that there is low water pressure at the Church Parsonage located on 1st Street. Mayor Clark pointed out that the location of the parsonage is very close to the elevation of the City Reservoirs. It was agreed that the Public Works Director would look into the problem.

WATER TAP FEE - WAYNE PITTMAN: Mr. Pittman informed Council that he had been told that the charge for a water tap at his property located on N. C. 226 South would be \$550.00. He said that he did not understand this when persons on Landis Loop were only paying \$200.00 for a water tap. He was informed that the County Commissioners provided the funds for the Landis Loop water line excluding the labor and equipment cost, which was furnished by the City. The reduction in the cost of the tap fees was based on the County providing the funds. Mr. Clifford Seagle advised that he was informed by the Public Works Director that he would have to pay approximately \$5,500.00 for a water line extension to his property on N. C. 226 South. He informed Council that he had already paid approximately \$30,000.00 for the water line extension installed several years ago to provide water to the Rocky Pass Rest Home. Mr. Seagle advised that they may be at the wrong meeting. That they should be meeting with the County Commissioners. Following a long discussion it was agreed that the City Council would meet with the Community, if the County Commissioners would also meet, to discuss water service to the area.

MARION THOROUGHFARE PLAN - PROGRESS REPORT: Mr. Travis Marshall reported on the progress to date on the Marion Thoroughfare Plan. He advised that most of the information on traffic counts and interviews with citizens on routes to work, etc., had been completed. He advised that he would be working on a computer model to project needed information on housing, industry, etc., for future projections. He informed Council that he would

be meeting with the Marion Planning Board in the near future for their input into the study. He asked if Council had any information they wished to share with him regarding needs to be addressed in the study. Councilman Little spoke on the traffic problems on Sugarhill Road in the vicinity of Rankin Drive. The City Manager advised that a by-pass was needed for traffic to go around the city or downtown area on the east and north side of town. Mayor Clark mentioned the traffic problems on Fleming Avenue due to school traffic at certain hours during the day. Councilman Cuthbertson spoke on the traffic problems at the Marion Post Office. Councilman Edwards spoke on the parking problems on Main Street and advised that one of the privately owned parking lots, located on the north-east corner of Logan and Henderson Streets, has been purchased by a new owner and fenced. Mayor Clark asked about the possibility of reducing the lanes on Main Street to provide for diagonal parking on Main Street. Mr. Marshall made notes on all the areas mentioned and advised that he would report back to the Board at a later date. He informed the City Manager that he would have some members of their agency, which deal with parking studies, contact the Manager reference the parking problems.

AGREEMENT - SEWER LINE EXTENSION - U. S. 70 WEST: The City Manager informed Council that he had worked with Dr. Ricketts and Wayne Silver for several years regarding the City providing sewer service to McDowell High and West Junior High. He stated that the cost for installation of the lines to serve the schools was just so great that neither could afford to pay for installation of the lines, either separately or together. He informed Council that at the present time contractors are working with DOT on the widening of the road in that area, including new storm drain lines. He advised that the cost of installing the needed sewer lines and manholes will increase considerably if not installed while the work present construction work is underway. Council was advised that the Manager had met with Dr. Ricketts, Wayne Silver and Byron Phillips of Great Meadows about a joint effort to have the necessary lines installed to serve the schools and property belonging to Great Meadows. The City Manager informed Council that following the meeting with the representative from Great Meadows and Dr. Ricketts and Mr. Wayne Silver, he thought there was an agreement to share the costs, with each paying 1/3 of the costs involved in the sewer line extension. Council was advised that the Manager had suggested that the City, subject to the approval of Council, would reduce the sewer connection fees, both to Great Meadows and the School system, up to the amount of their contribution toward the project. He advised that following the meeting he was informed by Great Meadows that they would only pay approximately \$14,750.00. The City Manager advised that the connection fees for both schools would be \$30,000.00. He advised that if the schools would pay the \$30,000.00 in advance and Great Meadows pay the \$14,750, then the City would need to pay the balance. He advised that the balance could range from \$60,000 up to \$75,000.00 depending on the informal bids for installation of the sewer line. He informed Council that there was not sufficient time to prepare plans and specification, submit for approval of the State and then bid the project and complete it before the work is completed on the road. He advised that informal bids were allowed up to \$100,000.00 and the construction cost would most likely be under that amount. Due to the time restraints he asked Council for permission to get informal bids and proceed with the low bid. He also asked for permission to make the necessary budget transfers and to use funds from the Capital Reserve Fund, if necessary. A full report and formal ordinance to be presented later for formal approval. Upon a motion by Councilman Little, seconded by Councilman Martin, the City council voted unanimously to authorize the Mayor and City Clerk to sign any necessary documents to proceed with the project and to authorize the City Manager to make the necessary Budget Transfers required. School Board member Phil Tate thanked the Council for proceeding with the project and stated that they were having problems with the sewer facilities and the costs for monitoring and operations. Dr. Ricketts advised that the schools involved accommodate 1/3 of the children of the County and without sewer service they would have some very serious problems.

ORDINANCE - AUTHORIZING THE CHIEF OF POLICE TO ISSUE PARKING PERMITS: Upon a motion by Councilman Little, seconded by Councilman Edwards, the City Council unanimously voted to adopt the following Ordinance:

CITY OF MARION
NORTH CAROLINA


ORDINANCE
AUTHORIZING THE CHIEF OF POLICE
TO ALLOW PARKING IN NO PARKING ZONES
FOR SHORT PERIODS OF TIME
MARION CITY CODE

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

Section 1. That the Marion Chief of Police be authorized to allow parking in "NO PARKING ZONES" for short periods of time for funerals, weddings, receptions and other events or where special circumstances make parking in such areas desirable for short periods of time.

Section 2. The Chief of Police shall issue such parking permits in writing and in advance of the event or special circumstance for which the parking permit is issued.

Adopted this the 22nd day of April, 1997.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

Ordinance Number O-97-04-22-01

IPDC HOUSING DEVELOPMENT GRANT - REQUEST TO EXTEND ADMINISTRATIVE CONTRACT:

The City Manager presented a letter from Paul Hughes, Executive Director of Isothermal Planning and Development Commission requesting that the administrative contract concerning the City of Marion's Housing Development Grant dated April 2, 1995 be amended by changing the terminate date from March 30, 1997 to December 31, 1997. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to authorize the change as requested and authorize the Mayor to execute the agreement.

NATURAL RESOURCES AND HERITAGE CONSERVATION COMMITTEE - APPOINT ONE MEMBER:

The City Manager presented a letter from Kelly Pipes, Assistant to the County Manager advising that the McDowell County Board of Commissioners voted to form a Natural Resources and Heritage Conservation Committee on April 7, 1997. The purpose of the committee is to identify and prioritize natural and historical resources and to pursue funding from state, federal and other grant sources to protect resources in McDowell County for utilization as parks, greenways, open space, historical sites, and recreational facilities. Each City Councilman was presented a copy of the Bylaws. Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, the City Council unanimously voted to appoint Councilman Steve Little to serve for a period of one year on the Committee.

MCDOWELL COUNTY BOARD OF ELECTIONS - REQUEST TO USE COMMUNITY BUILDING FOR MUNICIPAL ELECTIONS:

The City Manager informed Council that the Kiwanis Club was asked if they had any objections to the City reserving the Community for Municipal Elections on the first Tuesday of November in odd numbered years. The Club did not vote on the issue but the person contacted advised that since the City owned the building they could use it when they wanted. Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, the City Council unanimously voted to approve the request from the McDowell County Board of Elections to hold City Elections at the Community Building.

DBA REQUEST FOR PERMISSION FOR DOWNTOWN SIDEWALK SALES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, the City Council voted to approve the request from the DBA to have the Downtown Sidewalk Sales on Saturday, May 3; Saturday, August 2; and Saturday November 1, 1997.

MACA - REQUEST TO USE THE BASEMENT OF THE COMMUNITY BUILDING FOR S.T.A.Y. PROGRAM: A request from MACA to use the basement of the Community Building was referred to the Recreation Committee for study and a report to Councilman.

CEMETERY COMMITTEE - REPORT ON RECOMMENDED NUMBER OF OCCUPANTS PER GRAVE OR CRYPT:


The Cemetery Committee recommended that only one body or the remains of one body (cremated) be allowed in one grave or crypt in the Oak Grove Cemetery. It was the consensus of opinion of the members of the committee that when the graves or crypts were sold it was based on one body per grave or crypt. Upon a motion by Councilman Owenby, seconded by Councilman Edwards, the City Council unanimously voted to set a policy that only one body or the remains of one body (cremated) be placed in one grave


or one crypt in the Oak Grove Cemetery. The City Manager suggested that Council give consideration to having a mausoleum constructed especially for urns. The City Manager was directed to determine if there is a need based on the number of requests for placement of urns in the cemetery.

FIRE COLLEGE - GREENSBORO - REQUEST FOR PERMISSION TO ATTEND - ONE PAID FIREMAN/ONE VOLUNTEER: Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council unanimously voted to approve the request for Durwood Creson and Mack Laughridge to attend the Fire College.

EMERGENCY SERVICES PARADE: A letter from Carroll Hemphill, Director of McDowell County Emergency Services was presented inviting Council to participate in the Emergency Services Parade on Friday night, May 16, 1997 at 8:30 P.M.

ADJOURNMENT: There being no further business, upon a motion by Councilman Martin, seconded by Councilman Owenby, the meeting was adjourned at 9:20 P.M.


A. Everett Clark, Mayor

ATTEST: 
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 6, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Milligan, Fire Chief; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Derick Poteat, News Reporter, The Independent; Gail Sewell, News Reporter, WBRM Radio.

GUESTS PRESENT: Ansel Clark, Forest City, N.C.; Sara Clark, Forest City, N.C.; Nancy Clark, 704 Fleming Avenue, Marion, N.C. 28752; Garland Franklin Spring Street, Marion, N.C. 28752; James Lunsford, 910 Wayne Street, Marion, N.C. 28752.

OPENING STATEMENT: Mayor Clark advised that he had some special people in attendance for this night's meeting. His wife Nancy Clark, his son Ansel Clark and his grand-daughter Sarah Clark.

Mayor Clark's family was present due to honoring him on his birthday.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the minutes of the April 22, 1997 City Council Meeting.

JAMES LUNSFORD - COMPLAINT - 734 STATE STREET: Mr. James Lunsford came before Council requesting that something be done about the sewage problem in the yard of 734 State Street. He stated that he mows this property and that in one section of this back yard he went knee deep in raw sewage and water.

The City Manager advised that he was made aware of this problem several days earlier and reported it to the Public Works Department for investigation.

Public Works Director Glen Sherlin advised that he would check into this matter the following day.

S.T.A.Y. - REQUEST TO USE BASEMENT OF COMMUNITY BUILDING: The City Manager advised that he had received the following letter from Ms. Sandra Epperson.

Dear Gentlemen,

Mr. Daniels and Aaron Adams have called to my attention several problems with the basement of the Marion Community Building that have resulted from

MACA's S.T.A.Y. for the SUMMER program occupancy last summer. I have contracted with Don Mitchell to fix these damages. He will, within the next 30 days, make the following repairs. The cost of the project is \$2,930.00, which will be paid by the S.T.A.Y. for the SUMMER program.

Patch the plaster and paint the long wall (80'x20')
 Put new wallboard under the window on the office wall
 Reverse and re-hang the door to the office area
 Paint the office wall
 Replace the two doors in the boy's rest-room
 Replace the honeycomb light panel in the girls rest-room
 Clean out and sanitize the refrigerator

Mr. Mitchell figured into this cost priming and painting the gym side of the newly built hallway from the outside of the building to the restrooms. Please decide whether or not you will let us do this, and give me a call.

Thank you so much for letting us occupy this space during the summer. We will make every endeavor not to leave it in questionable condition again.

Sincerely,

Sandra Epperson
 Executive Director

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to approve the use of the basement contingent upon the repairs being made, excluding painting the gym side of the newly built hallway from the outside of the building to the rest-rooms, and further provided that S.T.A.Y. will be responsible for any damages caused by any of the participants.

ORDINANCE - WEEDS REQUIRED TO BE CUT: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance amending Article V. Weeds and Refuse Section 9-124 Marion City Code as follows:

CITY OF MARION
 NORTH CAROLINA

ORDINANCE
 AMENDING ARTICLE V. WEEDS AND REFUSE
 SECTION 9-124
 MARION CITY CODE

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

Section 1. That Article V., Section 9-124 of the Code of Ordinances, City of Marion, North Carolina, be deleted and a new Section 9-124 be inserted in lieu thereof to read as follows:

Sec. 9-124. Weeds required to be cut.

The owner of any lot located within the City of Marion shall cut down to a height not exceeding four (4) inches, all weeds and grass or other noxious growth at least once each month from April through and including September. The owner of any lot where the grass or weeds reach a height of six (6) inches shall be notified by the Chief of Police that the grass or weeds must be mowed in accordance with this Section. This notification will be given only once during the mowing season and the owner will be notified that if the grass or weeds reach a height of eight (8) inches, at anytime after the notice, the City will have the lot mowed and bill the owner for the cost of mowing. Should the owner fail to pay the amount charged within thirty (30) days of the date of the bill, the cost shall be charged against such premises and shall become a lien upon such lot, and be collected in the manner as is provided for the collection of delinquent taxes.

Adopted this the 6th day of may, 1997.

ATTEST:

J. Earl Daniels
 City Manager/Clerk

A. Everette Clark
 Mayor

Ordinance Number: O-97-05-06-01

RESOLUTION - AUTHORIZING EXCHANGE OF VEHICLES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to approve the following Resolution:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

RESOLUTION

AUTHORIZING EXCHANGE OF VEHICLES

WHEREAS, the City of Marion owns a 1995 model 2-door Chevrolet Blazer 4x4 automobile having an appraised value of \$1,200.00, and a 1990 model 4-door Chevrolet Corsica automobile having an appraised value of \$3,000.00, both of which are used by the Marion Police Department; and

WHEREAS, a van would be more suitable for the present needs of the Police Department than the two vehicles referred to above; and

WHEREAS, B and J Chevrolet Buick, Inc., of Marion (hereinafter referred to as "Dealer") owns a 1987 model Chevrolet Astro van, having an appraised value of \$4,200.00, which Dealer is willing to trade for the two vehicles referred to above; and

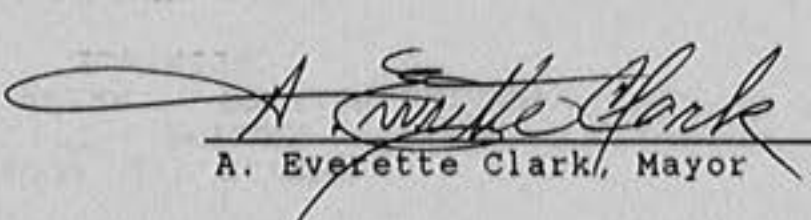
WHEREAS, the City desires to make such a trade, and would thereby receive full and fair consideration in exchange for its 1985 Blazer and 1990 Corsica police vehicles; and

WHEREAS, notice of the Marion City Council's intent to consider this resolution at its regularly scheduled May 6, 1997, meeting was published in The McDowell News on April 14, 1997, and all the other requirements of N.C.G.S. 160A-271 have been met;

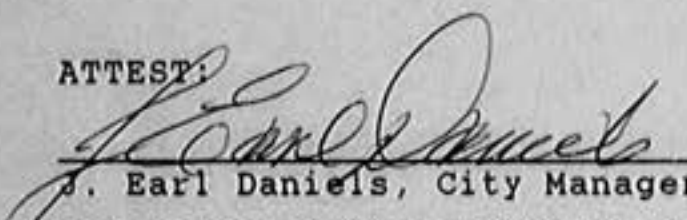
IT IS THEREFORE RESOLVED that the City Manager is hereby authorized by the City Council to exchange the police vehicles referred to above for the 1987 model Chevrolet Astro van by private negotiation, provided that the City shall not make any payment (except standard fees required for licensing and the like) for the van other than trading in the police vehicles.

This the 6th day of May, 1997.

SEAL


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

Resolution Number: R-97-05-06-01

The vote was as follows:

Mayor Pro Tem Little -	Yes
Councilman Cuthbertson -	Yes
Councilman Edwards -	Yes
Councilman Martin -	Yes

Councilman Owenby -	No
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POLICE - COMPLAINT - INTERSECTION OF BLUE RIDGE & OLD WEST HENDERSON

STREETS: The City Manager presented Council with a Memo from Chief Pruett recommending that a stop sign be placed where the yield sign is on Blue Ridge Street.

This matter was referred to the Street Committee.

WALK LIGHTS - GARDEN STREET & EAST COURT STREET: Mayor Clark advised that one pedestrian has already been struck by a vehicle and that he has had several requests that Pedestrian Walk Lights be installed at the intersection of Garden Street and East Court Street.

Mayor Clark advised that he thought that the County might join the City in requesting that DOT install the Walk Lights.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to ask the County to join the City in requesting that DOT install the Walk Lights.

SENIOR CENTER - REQUEST FOR ASSISTANCE WITH PARKING LOT: The City Manager presented Council with a memo from Ms. Shirley Arrowood of the Senior Citizen Center advising that Krinn Evans, owner of an adjacent tract of land to the Center has offered a 10 year lease to the Senior Center on the condition that the lot be graded and paved within six months of the signing of the lease. The additional parking would meet their current needs.

The County Commissioners are being asked to fund this project in their '97-'98 budget. The letter requests that a part of this project, whether cash or in-kind, should come from the City of Marion, since the Senior Center is on city-owned property and the majority of regular attendees at the Center are city residents.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to table this item until this requests goes before the County Commissioners.

INTERMEDIA PARTNERS - CORPORATE RESTRUCTURING: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

RESOLUTION OF THE CITY OF MARION, NORTH CAROLINA
APPROVING A TRANSFER OF CONTROL OF THE PARENT
COMPANY OF INTERMEDIA PARTNERS OF CAROLINA, L.P.,
WHICH HOLDS A CABLE TELEVISION FRANCHISE GRANTED BY
CITY OF MARION

WHEREAS, InterMedia Partners of Carolina ("IP-Carolina") owns, operates, and maintains a cable television system (the "System") in the City of Marion ("Franchise Authority"), pursuant to the Franchise Ordinance between the City of Marion and InterMedia Partners of Carolina (the "Franchise"), and IP-Carolina is the current authorized holder of the Franchise; and

WHEREAS, the parent company of IP-Carolina is involved in a corporate restructuring (the "Corporate Restructuring") explained in detail herein, whereby a transfer of control of the parent of IP-Carolina will occur, which restructuring is subject to , among other conditions, any required approval of the Franchise Authority with respect thereto; and

WHEREAS, IP-Carolina is presently owned by Intermedia Partners, a California limited partnership ("IP"), which holds a 99% general partnership interest. The limited partner of IP-Carolina is affiliate Robin Cable Systems, L.P. The general partner of IP is InterMedia Capital Management, ("ICM"). The two general partners of ICM are Leo J. Hindery, Jr., Managing General Partner; and InterMedia Management, Inc. ("IMI") Mr. Hindery is the President and sole shareholder of IMI; and

WHEREAS, as a result of the Corporate Restructuring, ICM's general partnership interest in IP will convert to a limited partnership interest, and a new entity InterMedia Capital Management, ("ICM LLC"), a California limited liability company, will take the place of ICM as general partner of IP. IMI will remain as managing member (similar to managing general partner) of the replacement entity ICM LLC, and will be joined by an additional member, Robert J. Lewis, who will replace Mr. Hindery. Mr. Lewis will become President and sole shareholder of IMI; and

WHEREAS, IP-Carolina has requested consent by the Franchise Authority to the transfer of control which will result from the Corporate Restructuring in accordance with the requirements of the Franchise; and

WHEREAS, the Franchise Authority has found that the transfer of control resulting from the Corporate Restructuring of the parent of IP-Carolina to won and operate the System in accordance with the Franchise; and

WHEREAS, the Franchise will continue to be held by IP-Carolina after the Corporate Restructuring; and

WHEREAS, the Franchise Authority deems that it is necessary and appropriate that the approval of the transfer of control resulting from such Corporate Restructuring be granted.

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

SECTION 1. The Franchise Authority hereby consents to and approves the transfer of control of the Franchise resulting form the Corporate Restructuring as detailed herein.


SECTION 2. The consents and approvals hereby granted are given pursuant to the Franchise and are permitted by law, and shall be contingent upon and take effect only on and after the transfer of control pursuant to the Corporate Restructuring. The consents and approvals hereby given do not constitute and shall not be construed to constitute a waiver of any rights or obligations of any franchisee under the Franchise.

SECTION 3. IP-Carolina may, during the remaining Franchise term, transfer and assign the Franchise to any entity owned or controlled by, controlling or under common control with, IP-Carolina, or its general or limited partners, or any affiliate thereof, upon notice to Franchise Authority, describing the entity in sufficient detail to satisfy the Franchise Authority that the transfer and assignment meets the requirements of this Section 3 and is in compliance with Section 10, Transfer of Ownership and Control, of the Franchise Agreement between the City of Marion and InterMedia Partners of Carolina dated September 1, 1996 and expiring on September 1, 2006.

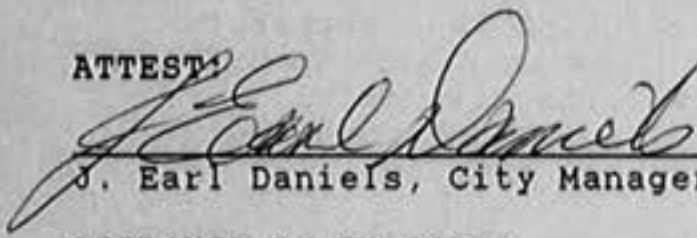
SECTION 4. The Franchise Authority confirms that, as of the date of this Resolution: (a) the Franchise was properly granted to IP-Carolina, is valid, remains in full force and effect and expires on September 1, 2006, subject to options, if any, to extend such term; (b) the Franchise Supersedes all other agreements between IP-Carolina and the Franchise Authority and represents the entire understanding of the parties.

SECTION 5. This Resolution shall be deemed effective as of the date of the transfer of control contemplated in the Corporate Restructuring.

PASSED, Adopted AND APPROVED the City Council this 6th day of May, 1997.


A. Everett Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

APPROVED AS TO FORM:

City Attorney

Resolution Number: R-97-05-06-02

McDOWELL HIGH - SEWER LINE EXTENSION: The City Manager informed Council that the Contractor working for the Department of Transportation along the south side of U.S. 70 would not permit the City's contractor to work on the right-of-way. He advised that it would be necessary for the City to request an easement or right-of-way from the Schools and also from Great Meadows. He advised that Great Meadows has requested free sewer connections on the new sewer line up to \$16,100 in exchange for the right-of-way. He advised that the necessary legal documents would be prepared.

DRAINAGE PROBLEM - NORTH GARDEN STREET - MS. ELLEN BROWN: The City Manager advised that Ms. Ellen Brown of North Garden Street has reported a drainage problem in the rear yard of her property.

She believes the problem is caused by a city drain.

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Martin, Council voted unanimously to have the Public Works Director Glen Sherlin investigate the matter to determine if it is a city problem or a private drain line.

McDOWELL COUNTY INDUSTRIAL PARK - WATER & SEWER IMPROVEMENTS - CHANGE ORDER NUMBER TWO - FINAL: The City Manager advised Council that a change work order for the McDowell County Industrial Park Water & Sewer Improvement Project had been issued on August 5, 1997. The change work order has not been presented to Council for approval as of this date.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following change order:

1. A 12-inch gate valve was cut into the new 12-inch water line at the intersection of the Industrial Park Road and U.S. 221 with a cost of \$1,524.28

2. A 2-inch gate valve was installed on the 2-inch water line to serve the sewer pumping station facilities with a cost of \$250.00
3. A float switch and electrical timers were installed in the bar screen electrical control panel to control the bar screen during periods of minimal flow into the sewer pumping station with a cost of \$519.47
4. Electrical time delay circuits were installed in each of three pumps in the sewer pump station, to allow only one sewer pump to be started by the electrical standby generator during a power outage with a cost of \$615.25
5. Duke Power requested installation of a four-inch PVC conduit across the small stream and wet area near the sewer pump station to provide power to the site with a cost of \$1,411.25
6. Duke Power requested a concrete transformer pad be poured near the sewer pump station with a cost of \$962.95
7. The asphalt road cut at the intersection of Highway 226 and SR 1165 was overlaid with a 1-inch layer of asphalt per the request of the Department of Transportation. The Contract Documents require a 2-inch overlay of asphalt with a cost of \$15.00 per yard. The Contractor agreed to place the 1-inch overlay at \$6.82 per yard, with a total cost of \$7,638.40

The Total cost of all Change Order Items \$12,921.60

Total Construction Cost and Revised Contract Amount \$716,826.79

With approval of the proposed Change Order, a credit is being returned to the Owner in the sum of \$55,926.21

SPECIAL SESSION - CITY COUNCIL - GENE DILLMAN: The City Manager advised that Mr. Gene Dillman, Director of Personnel and Employee Relations Services with North Carolina League of Municipalities, will meet with Council on May 13, 1997 at 7:00 P.M., to present the City of Marion's proposed Pay and Classification Plan and Recommended Personnel Policy.

WATER BILL COMPLAINT: The City Manager informed Council that two ladies had mailed their payments for water service to a private company, which company deposited their checks and refused to return them. The checks were made payable to the City and were mailed together. He advised that he had sent a letter to the ladies advising that the city cannot waive there bills and that the bills must be paid or service will have to be discontinued until the bills and late penalties are paid.

PROCLAMATION - MUNICIPAL CLERKS' WEEK: Mayor Clark presented the following Proclamation recognizing May 4, 1997 through May 10, 1997 as Municipal Clerks' Week:

**MUNICIPAL CLERKS' WEEK
CITY OF MARION
PROCLAMATION**

WHEREAS, the office of the Municipal Clerk, time honored and vital part of local government exists throughout the world, and

WHEREAS, the office of the Municipal Clerk is the oldest among public servants, and

WHEREAS, the office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and

WHEREAS, the Municipal Clerk has pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community; and

WHEREAS, the Municipal Clerk continually strives to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual

NOTE

THIS PAGE WAS
ACCIDENTALLY
OMITTED FROM THE
MINUTE BOOK.

CORRECTION MADE BY
SECRETARY TO THE
CITY MANAGER...
DEBI LAUGHRIDGE

meetings of their state, province, county and international professional organizations; and

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

NOW, THEREFORE, I, A. Everette Clark, Mayor of the City of Marion, do recognize the week of May 4 through May 10, 1997, as

MUNICIPAL CLERKS' WEEK

and further extend appreciation to our Municipal Clerk, J. Earl Daniels, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

WITNESS my hand and seal of the City of Marion this 6th day of May, 1997.



A. Everette Clark, Mayor

CLOSED SESSION - CONSIDER PROPERTY ACQUISITION: Council met in a brief closed session to discuss the purchase of a lot. No action was taken.

ADJOURNMENT: There being no further business, upon a motion by Councilman Martin, seconded by Councilman Little, the meeting was adjourned at 9:40 P.M.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Special Session on Tuesday evening, May 13, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

OTHERS PRESENT: J. Earl Daniels, City Manager

PAY AND CLASSIFICATION PLAN: Gene Dillman, Director of Personnel and Employee Relations Services with the North Carolina League of Municipalities, presented to Council a proposed Pay and Classification Plan and recommended Personnel Policy prepared for the City of Marion. Mr. Dillman went into great detail in explaining procedures followed in preparing the pay plan. He informed Council that he met with all City employees as a group at the beginning and passed out survey forms to be completed by each employee. The survey asked that each employee list specifically what the employee did in his/her job. Each Department Head reviewed the surveys completed by employees in that specific Department, to insure that the survey was complete and that the Department Head viewed the employees job requirements the same as the employee. Mr. Dillman reviewed each survey report and then returned to Marion and met with each employee individually to discuss the survey completed by the employee, again to insure that the employee completed the form properly and that it included all work performed by the employee. Mr. Dillman advised that surveys were mailed to ten local industries to gather information regarding the salary ranges of city employees as compared to employees working in local industries. Four industries completed and returned the forms. In addition, Mr. Dillman compared the positions and salaries with ten communities of comparable size and structure in western North Carolina. Those communities were: Bessemer City, Black Mountain, Brevard, Canton, Forest City, Granite Falls, Long View, North Wilkesboro, Rutherfordton, and Valdese.

Mr. Dillman informed Council that it would be necessary to do a Market Analysis each year to up-date the Pay Plan. He recommended that each of the ten communities be contacted each year to determine the adjustment made to their pay plans. The City's pay plan should be adjusted by the average of the other adjustments made by the other communities to keep the pay plan current.

Mr. Dillman advised that he received complete cooperation from the City Manager and all staff members and employees.

He advised that he was pleased and comfortable with the proposed plan. He informed Council that the approximate cost to initiate the pay plan would be approximately 1.7% of payroll or about \$26,596.

Mr. Dillman advised that he would not review the Proposed Personnel Policy but would recommend that Council spend some time reviewing the Policy.

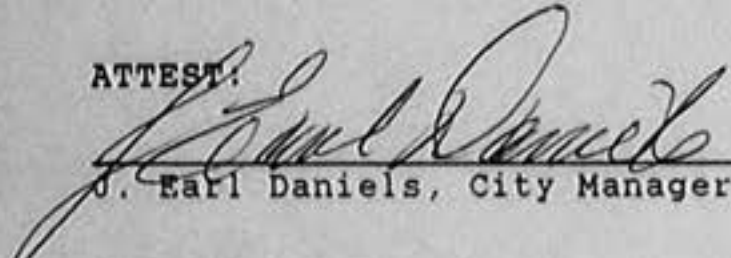
Following the presentation there was a discussion of the Pay Plan.

Councilman Little said that he favored the Pay Plan and felt comfortable with approving the plan as presented. Councilman Cuthbertson, said that he approved of the plan but that he would be unable to attend the next regular meeting of Council on Tuesday, May 20, 1997. Councilman Edwards advised that he was not ready to vote on the pay plan until he had more time to review it. Councilman Little asked how much time he would need? Councilman Edwards responded about two weeks.

It was agreed by Council to delay action on voting on the plan to allow more time for review.

ADJOURNMENT: There being no further business, upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, the meeting was adjourned at 9:54 P.M.

ATTEST:


J. Earl Daniels, City Manager/Clark


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, May 20, 1997 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

Mayor Clark advised that Councilman Lloyd Cuthbertson was not present for this meeting due to being out of town.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Glenda Mace, Brenda Williams, Chet Effler, MPD; Jennifer Watson, News Reporter, The McDowell News; Derick Poteat, News Reporter, the Independent; Van McKinny, News Reporter, WBRM Radio.

GUESTS PRESENT: James Mosely, 36 Broadview Avenue, Asheville, N.C.; Mr. & Mrs. Roger Gouge, 710 Ridgecrest Drive Marion, N.C. Chinetta McGuire 110 Catawba Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to approve the minutes of the May 6, 1997 & May 13, 1997 City Council Meetings.

PLANNING BOARD - COMPLAINT - RIDGECREST DRIVE: Mr. & Mrs. Roger Gouge of 710 Ridgecrest Drive appeared before Council advising that they stated to build a carport on their property then realized they would need a permit. They then found out that they could not locate the carport where they had intended due to side and rear yard set back requirements of the Marion Zoning Ordinance.

The City Manager explained the Zoning Ordinance requirement pertaining to set backs.

Mr. Gouge advised that he understood the setbacks pertaining to the location of the carport, but that his main concern at this point was that Zoning Administrator Ms. Lovina Smith had stated that if his house burned he could not rebuild it as is.

The City Manager informed Mr. and Mrs. Gouge that their questions should be

addressed by the Board of Adjustment.

CITIZEN COMPLAINT - REQUIRED GREASE TRAP - JIM MOSLEY - SUBWAY: Mr. Jim Mosley appeared before Council requesting that the new Subway being built, not fall under the Ordinance requiring Grease Tanks. He advised that there was no food cooked on the premises and that all food is precooked when purchased.

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present for the vote, voted to not require the Subway to have a grease separator.

Councilman Edwards had stepped away from the meeting to make a phone call.

PUBLIC HEARING - ZONING - REID STREET ANNEXATION AREA: The City Manager opened the Public Hearing.

There was no one present to discuss this zoning matter.

The City Manager advised that it is the recommendation of the Planning Board that property owned by RWC Investments be zoned R-2 General Residential upon annexation, which is effective June 30, 1997.

The Public Hearing was closed.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to accept the recommendation of the Planning Board to zone the property R-2 General Residential.

MCDOWELL HIGH SCHOOL SEWER LINE EXTENSION - AGREEMENTS - GREAT MEADOW/SCHOOL BOARD:

Councilman Edwards returned to the meeting.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted to authorize the signing the following agreements:

STATE OF NORTH CAROLINA

COUNTY OF McDOWELL

EASEMENT DEED
AND AGREEMENT

KNOW BY ALL MEN THESE PRESENTS, that GREAT MEADOWS, INC., hereinafter called "Grantor", on this the 20th day of May, 1997, for good and valuable consideration recited herein, does hereby grant unto the CITY OF MARION, and its successors and assigns (hereinafter called "Grantee"), the right, privilege and easement described below to go in and upon certain portions of that land of Grantor (hereinafter "premises") which land is described below in Deed Book 418, Page 658 of the McDowell County Public Registry, and which description is specifically incorporated by reference as if fully set forth herein. The CITY OF MARION, for good and valuable consideration recited herein, does hereby grant unto GREAT MEADOWS, INC. the right to tap into the sewer line system as constructed on the Premises described herein, with a credit of up to \$16,000.00 in tap fees; however the credit granted to GREAT MEADOWS INC. for \$16,000.00 in tap fees shall expire ten years after the date of execution of this document whether all or a portion of the tap fee value has been used by GREAT MEADOWS, INC. Further, this right and easement is conditioned on the Grantee's commencement of work on such sewer line (as below described) within twelve months of the execution of this Easement Deed then the right, easement and agreement shall immediately terminate.

TEMPORARY EASEMENT

The TEMPORARY easement herein conveyed is twenty (20) feet in width and is conveyed for the following purposes; to erect, construct, repair, and place on the premises an underground sewer pipeline system which shall serve to provide sewer service to the premises and other parcels. Further rights conveyed include, but are not limited to, the right to go upon the premises whenever necessary with motor vehicles and other repair and maintenance equipment for the purpose of constructing, reconstructing, repairing or replacing the sewer line service (provided that in constructing the utility line the Grantees shall remove all surplus earth, make level the surface of the ground above the sewer lines; and interfere as little as is reasonably possible with any plants, fences or other improvements upon the premises).

The easement granted includes all lands within ten (10) feet on each side of the center line of the constructed sewer pipe line. The sewer pipe line will be constructed as near as possible to the Southern edge of the right of way for U.S. 70. The sewer pipe line shall run parallel with and adjacent to the existing right of way for U.S. 70 in a westerly direction as U.S. 70

extends West from its intersection with HWY 221 to the property owned by the McDowell County School Board.

The TEMPORARY easement shall cease and shall convert to the below described permanent easement upon completion of construction of the sewer line.

PERMANENT EASEMENT

The PERMANENT easement herein conveyed is ten (10) feet in width and is for the following purposes: to reconstruct, repair, replace, operate, and maintain on the premises an underground sewer pipeline system which shall serve to provide sewer service to the premises. Further rights included in this conveyance include, but are not limited to, the right to go upon the premises whenever necessary for the purpose of inspecting, maintaining, and repairing the sewer line service (provided that in constructing and repairing the sewer line service the Grantees shall remove all surplus earth; make level the surface of the ground above the sewer line; and interfere as little as is reasonably possible with any plants, fences or other improvements upon the premises); and constructing and maintaining any above ground facilities which may be reasonably required to provide sewer service as contemplated by this Easement.

The easement granted includes all lands within 5 feet on each side of the center line of the constructed sewer pipe line.

Further the Grantor will not erect or maintain any structure within five (5) feet of either and both sides of the constructed sewer pipe line, except upon receiving prior written consent by the Grantee, its successors and assigns. Further the Grantor shall not excavate, grade or fill any portion of the premises except in accordance with good engineering practice, and said excavation, grade or fill shall not endanger the Grantee's pipelines, structures or foundations.

GENERAL AGREEMENTS AND ACKNOWLEDGMENTS


It is understood that Grantee may do any act or things necessary to remove or eliminate any condition which endangers, threatens to endanger, or interferes with the operation and maintenance of said sewer line system.

Grantor hereby acknowledges assumes full and sole responsibility and liability for hazardous or toxic substance contamination or pollution from facilities owned, managed and maintained by the Grantor which are above or below the ground described as the premises. Grantor covenants that it has not done and shall not do nor allow anyone else to do anything affecting the premises that is in violation of applicable law, including environmental law. "Hazardous Substances" include substances defined as toxic or hazardous substances by environmental law as well as the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, environmental law means federal law and laws of the jurisdiction where the premises are located that relate to health, safety or environmental protection. For the purposes of this agreement, Grantor's responsibility for liability arising from petroleum products shall mean and include that Grantor shall defend and indemnify the Grantee and its agents, successors, and assigns against all claims, suits, liabilities, losses and expenses (including attorney's fees and other costs of litigation) arising out of any injury, disease or death of persons, or damage to property, caused by or happening in connection with the loading, transportation, unloading, storage, handling, sale or use of kerosene, gasoline or other petroleum products on the premises.

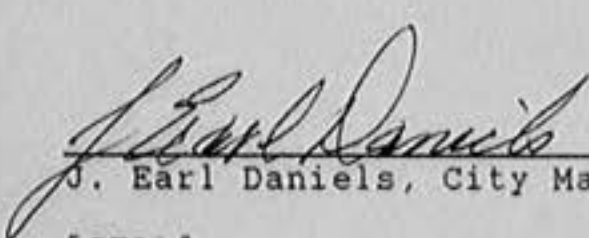
The Grantor covenants that it is the owner of the above described land and that the land is free and clear of encumbrances and liens of whatsoever character.

TO HAVE AND TO HOLD said right and easement to the Grantee and its successors in title and assigns forever; it being agreed that the right and easement hereby granted is appurtenant to and runs with the premises now owned by Grantor.

IN TESTIMONY WHEREOF, said Grantor and Grantee have hereunto caused this document to be signed in their corporate names by their duly authorized officers and their seals to be hereunto affixed by authority of their Board of Directors or City Council, as the case may be, the day and year first above written.

BY:  THE CITY OF MARION, NORTH CAROLINA
A. Everette Clark, Mayor SEAL

ATTEST:


J. Earl Daniels, City Manager/Clerk

[SEAL]

BY: GREAT MEADOWS, INC. SEAL
President

ATTEST:

Secretary
[SEAL]

STATE OF NORTH CAROLINA

COUNTY OF McDOWELL

EASEMENT DEED
AND AGREEMENT

KNOW BY ALL MEN THESE PRESENTS, that THE MCDOWELL COUNTY PUBLIC SCHOOLS, hereinafter called "Grantor", on this the 20th day of May, 1997, in consideration of good and valuable consideration recited herein, does hereby grant unto the CITY OF MARION, and its successors and assigns (hereinafter called "Grantee"), the right, privilege and easement to go in and upon certain portions of that land of Grantor (hereinafter "premises") which is specifically described in Deed Book ___, Page ___ of the McDowell County Public Registry, and which description is specifically incorporated by reference as if fully set forth herein. This right and easement is conditioned on the Grantee's commencement of work on such sewer line (as below described) within twelve months of the execution of this Easement Deed. In the event Grantee does not commence such work within twelve month of the execution of this Easement Deed then the right and easement shall immediately terminate.

TEMPORARY EASEMENT

The TEMPORARY easement herein conveyed is twenty (20) feet in width and is conveyed for the following purposes; to erect, construct, repair, and place on the premises an underground sewer pipeline system which shall serve to provide sewer service to the premises and other parcels. Further rights conveyed include, but are not limited to, the right to go upon the premises whenever necessary with motor vehicles and other repair and maintenance equipment for the purpose of constructing, reconstructing, repairing or replacing the sewer line service (provided that in constructing the utility line the Grantees shall remove all surplus earth, made level the surface of the ground above the sewer lines; and interfere as little as is reasonably possible with any plants, fences or other improvements upon the premises).

The easement granted includes all lands within 20 feet of either and both sides of the center line of the constructed sewer pipe line. The sewer pipe line will be constructed as near as the Northern edge of the Southern side of the fence which is currently in existence and in place along the Northern edge of the premises. The sewer pipe line shall run parallel to and adjacent to the existing right of way for U.S. in a westerly direction as U.S. 70 extends West from the line of lands owned by Great Meadows, Inc.

The TEMPORARY easement shall cease and shall convert to the below described permanent easement upon completion of construction of the sewer line.

PERMANENT EASEMENT

The PERMANENT easement herein conveyed is ten (10) feet in width and is for the following purposes: to reconstruct, repair, replace, operate, and maintain on the premises an underground sewer pipeline system which shall serve to provide sewer service to the premises. Further rights included in this conveyance include, but are not limited to, the right to go upon the premises whenever necessary for the purpose of inspecting, maintaining, and repairing the sewer line service (provided that in constructing and repairing the sewer line service the Grantees shall remove all surplus earth; make level the surface of the ground above the sewer line; and interfere as little as is reasonably possible with any plants, fences or other improvements upon the premises); and constructing and maintaining any above ground facilities which may be reasonably required to provide sewer service as contemplated by this Easement.

The easement granted includes all lands within 5 feet on each side of the center line of the constructed sewer pipe line.

Further the Grantor will not erect or maintain any structure within five (5) feet of either and both sides of the constructed sewer pipe line, except upon receiving prior written consent by the Grantee, its successors and assigns. Further the Grantor shall not excavate, grade or fill any portion of the premises except in accordance with good engineering

practice, and said excavation, grade or fill shall not endanger the Grantee's pipelines, structures or foundations.

GENERAL AGREEMENTS AND ACKNOWLEDGMENTS

It is understood that Grantee may do any act or thing necessary to remove or eliminate any condition which endangers, threatens to endanger, or interferes with the operation and maintenance of said sewer line system.

Grantor hereby acknowledges and assumes full and sole responsibility and liability for hazardous or toxic substance contamination or pollution from facilities owned, managed and maintained by the Grantor which are above or below the ground described as the premises. Grantor covenants that it has not done and shall not do, nor allow anyone else to do, anything affecting the premises that is in violation of applicable law, including environmental law. "Hazardous Substances" include substances defined as toxic or hazardous substances by environmental law as well as the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, environmental law means federal law and laws of the jurisdiction where the premises are located that relate to health, safety or environmental protection. For the purposes of this agreement, Grantor's responsibility for liability arising from petroleum products shall mean and include that Grantor shall defend and indemnify the Grantee and its agents, successors, and assigns against all claims, suits, liabilities, losses and expenses (including attorney's fees and other costs of litigation) arising out of any injury, disease or death of persons, or damage to property, caused by or happening in connection with the loading, transportation, unloading, storage, handling, sale or use of kerosene, gasoline or other petroleum products on the premises.

The Grantor covenants that it is the owner of the above described land and that the land is free and clear of encumbrances and liens of whatsoever character.

TO HAVE AND TO HOLD said right and easement to the Grantee and its successors in title and assigns forever; it being agreed that the right and easement hereby granted is appurtenant to and runs with the premises now owned by Grantor.

IN TESTIMONY WHEREOF, said Grantor and Grantee have hereunto caused this document to be signed in their corporate names by their duly authorized officers and their seals to be hereunto affixed by authority of their Board of Directors or City Council, as the case may be, the day and year first above written.

TO HAVE AND TO HOLD said right and easement to the Grantee and their successors in title and assigns forever; it being agreed that the right and easement hereby granted is appurtenant to and runs with the premises now owned by Grantor.

IN TESTIMONY WHEREOF, said Grantor and Grantee have hereunto caused this document to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Director, the day and year first above written.

BY: THE CITY OF MARION, NORTH CAROLINA SEAL
R. Everett Clark, Mayor

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

[SEAL]

BY: GREAT MEADOWS, INC. SEAL
President

ATTEST:

Secretary
 [SEAL]

McDOWELL HIGH SCHOOL - SEWER LINE - INFORMAL BIDS: The City Manager advised that informal bids were received for the McDowell High School Sewer Line Extension as follows:

1. TNNC - TENNOCA CONSTRUCTION CO: Bid 12" PVC \$77,420

2. McCormick Grading & Utilities: Bid 12" PVC \$90,720

3. Hobson Construction Co: Bid 12" PVC \$66,940

Upon a motion by Councilman Owenby seconded by Councilman Little, Council voted to accept the low bid of \$66,940 from Hobson Construction Company.

CATAWBA STREET - STREET COMMITTEE RECOMMENDATIONS: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted to widen Catawba Street to provide for two-way traffic. The City Manager was asked to prepare the necessary ordinances to make Catawba Street two-way after the work is accomplished.

BLUERIDGE STREET - STREET COMMITTEE RECOMMENDATIONS: The City Manager advised that it was the recommendation of the Street Committee to not make any changes on traffic signs on Blueridge Street. No action was taken.

EAST COURT STREET - CENTER LINE REMOVAL - TURN LANE - STREET COMMITTEE RECOMMENDATIONS: Upon a motion by Councilman Martin, seconded by Councilman Little, Council voted to remove the center line on East Court Street from Garden Street to Park Avenue and to place a separate center turn lane to be marked off along the same route.

The City Manager was authorized to prepare an Ordinance prohibiting parking on the north side of East Court Street from Garden Street to North Madison Street.

MEDICAL INSURANCE - REFUNDS - CITY EMPLOYEES: The City Manager advised that a total of \$4,156.94 is due to be refunded to City Employees in accordance to the Resolution regarding the City Medical Plan adopted on August 6, 1996.

No further action was needed for this amount to be refunded.

EMPLOYEE MEDICAL INSURANCE PROGRAM: Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted to accept the Insurance proposal from TrustMark. The proposal was quoted as follows:

	Monthly	EMP DEDUCT WEEKLY
Employee	148.14	City Pays
Child (ren)	134.19	33.55
Spouse	193.83	48.46
Spos/Child	328.03	82.01

The Employee can pay down the \$1,500.00 deductible to \$500.00 by paying the following:

	MONTHLY	500 EMP OPT	EMP WEEKLY	EMP MONTHLY
Employee	148.14	20.09	5.02	20.29
Child(ren)	153.01	20.09	43.28	173.10
Spouse	221.05	20.29	60.29	241.14
Spos/Child	374.08	20.09	98.54	394.17

EMPLOYEE PAY AND CLASSIFICATION PLAN: Following a short discussion, Councilman Edwards made a motion to reject the Employee Pay and Classification Plan prepared by Gene Dilman, representing the North Carolina League of Municipalities. This motion was seconded by Councilman Owenby. A discussion followed. Councilman Edwards and Councilman Owenby expressed concern that certain Department Heads and Supervisors would be receiving major salary increases and certain lower paid employees would not be receiving such increases. The City Manager stated that Mr. Dilman's proposed plan was based on a very thorough study comparing salaries paid by the City of Marion and ten other western North Carolina cities of a similar size. Public Works Director Glen Sherlin approached Council and advised that he had not seen the pay plan and did not know what was in it. He advised that he was not concerned if Council choose not to raise his pay but that Council should support employees of the city because they work for the Council. Chief Pruett agreed with Mr. Sherlin and advised that Council could take any salary increases proposed for him and give it to his employees.

Councilman Little spoke in favor of the pay plan. Councilman Martin said the plan could be changed but should not be totally rejected. The question was called. Councilman Edwards and Councilman Owenby voted in favor of the motion to reject the plan. Councilman Little and Councilman Martin voted against the motion. Mayor Clark voted to break the tie and voted against the motion.

Councilman Little made a motion to accept the Pay and Classification Plan. This motion did not receive a second.

Council agreed to meet in a Special Called Session on Tuesday, May 27, 1997 regarding the Pay and Classification Plan.

MARION YOUTH POLICE PROGRAM: The City Manager presented Council with a memo from Chief Tom Pruett requesting Councils approval in forming a Jr. Police Club.

A discussion followed.

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

DRESSDOWN FOR LEUKEMIA DAY: The City Manager presented Council with information regarding an event supporting the Leukemia Society of America. Several City Employees requested permission for City Employees to participate in the Fifth Annual "Dress Down For Leukemia" day. This would not involve the City... only City Employees wishing to participate.

Upon a Motion by Councilman Edwards, seconded by Councilman Little, Council voted to approve City Employees participation in this Event.

COUNCILMAN OWENBY - ABC BOARD - SALARY INCREASE: Councilman Owenby advised that the Marion ABC Board placed second in the State in efficiency in operations. All Councilmen spoke highly of the members of the Board. Councilman Owenby made a motion that Council increase the members pay by \$125.00 per month effective July 1, 1997. This motion was seconded by Councilman Edwards with all Councilmen present voting in favor.

COUNCILMAN EDWARDS: Councilman Edwards advised that no decisions had yet been made by Council in reference to the tax rate on the Downtown Municipal Tax Rate.

A brief discussion followed.

It was decided to discuss this matter at the next regular City Council meeting to be held on June 3, 1997.

Councilman Edwards also advised that he had received a complaint of odor still being a problem in the Clay Street Area.

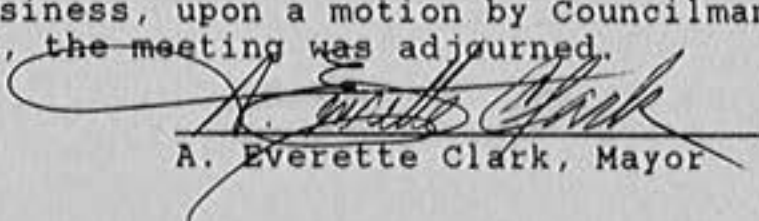
Councilman Owenby advised that Ms. Ermine Neal is requesting that the water meter located on her property be moved.

Public Works Director Glen Sherlin was instructed to investigate these requests.

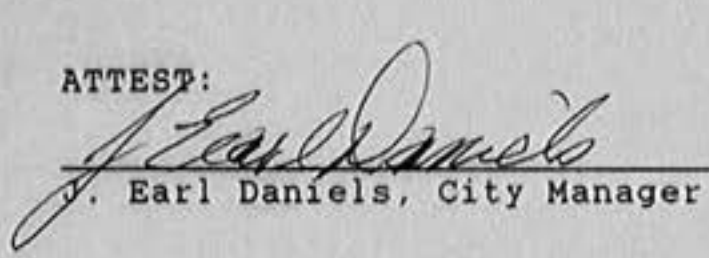
Executive Session: Upon a motion by Councilman Edwards, seconded by Councilman Martin, Council voted to go into Executive Session to discuss a personal matter.

REGULAR SESSION: Upon a motion by Councilman Edwards, seconded by Councilman Martin, Council voted to go back into Regular Session.

ADJOURNMENT: There being no further business, upon a motion by Councilman Martin, seconded by Councilman Edwards, the meeting was adjourned.


A. Everette Clark, Mayor

ATTEST:


J. Earl Daniels, City Manager