

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 Council's 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.

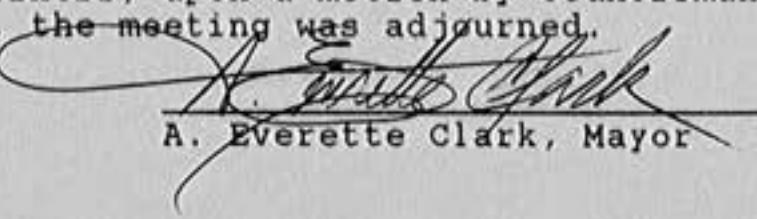
Councilman Owenby advised that Ms. Ermine Neal is requesting that the water meter located on her property be moved.

Public Works Director Glen Sherlin was instructed to investigate these requests.

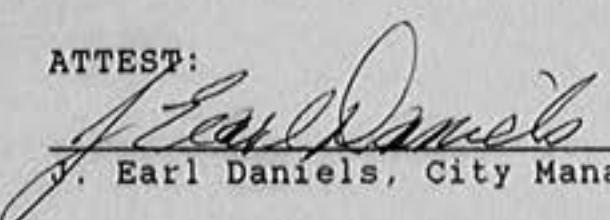
**Executive Session:** Upon a motion by Councilman Edwards, seconded by Councilman Martin, Council voted to go into Executive Session to discuss a personal matter.

**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:

  
Earl Daniels, City Manager

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, May 27, 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; Jennifer Watson, News Reporter, The McDowell News; and Derick Poteat, News Reporter, The Independent. Van McKinney, News Reporter, WBRM Radio arrived at the close of the meeting.

EMPLOYEE PAY AND CLASSIFICATION PLAN: The City Manager presented the following for Council consideration:

---

**EMPLOYEE PAY AND  
CLASSIFICATION PLAN:  
MEMORANDUM**

---

**DATE:** June 13, 1997  
**TO:** Mayor/City Council  
**FROM:** J. Earl Daniels, City Manager  
**RE:** Proposed Amended Pay Plan

I am presenting the attached proposed amended pay plan for your consideration.

Several comments are necessary prior to reviewing the pay plan:

1. The City Manager's salary is not included, as well as the Mayor and Council's salary.
2. The plan presented does not present actual budgeted figures because the pay plan does not show overtime, reserve police pay, or promotions.
3. Please note on Table 1. that I have placed the salary for the Personnel Officer back in the Plan. It was left out by Mr. Dilman because that position was vacant when he did the study. I used this years budgeted salary for present salary and the proposed salary as stated in Mr. Dilman's Plan for July. (The new Personnel Director will be reporting for work the first of June. He holds a Masters Degree in Public Administration. He will also assist the City Manager in other work relating to administrative operations.)
4. Only 4 persons are recommended for a 2.5% merit increase in July. One in Administration; two in Police; and one in the Water Department. These increases are in addition to being placed on the pay plan.
5. The Police Chief's salary, the Public Works Director's salary, and the Water Plant Superintendent's salary will be held at the present rate until the Market Adjustment is made in January 1998.
6. The Administrative Assistant, who has been serving as Personnel Director along with his other duties and responsibilities, is proposed to be promoted to Finance Officer. I will continue to serve as Finance Director. This promotion is based on discussions with Mr. Dilman regarding proper job classification based on actual duties performed by the employee. The salary is also based on the duties and responsibilities for the position.
7. Under the Pay Plan presented by Mr. Dilman, four employees were listed as being overpaid based on his report. Those employees were capped so they could not receive any increases until the pay plan caught up with their salaries. Under the plan presented, these four employees have been moved to a higher salary grade. None of them will receive any increase in July but each will receive a very small increase, if the proposed 3% Market Adjustment is granted in January 1998. After that they will receive only annual Market Adjustments to keep up with the cost of living.
8. I have penciled in changes proposed for your review.

9. I have assumed a Market Adjustment of 3% for January 1998. As long as the Market Adjustment falls 3% or less, the figures presented will cover our costs. This means that if Council grants the 3% Market Adjustment in January, that every position in the Pay Plan will increase by 3%.

10. The total annual salary of all employees in the Pay Plan, based on the modifications and exceptions listed above, is presently \$1,564,531. Based on the attached amended Pay Plan and the comments above, the total cost to the City for 1997-98 to meet the budget for all salaries in the Pay Plan is \$ 1,617,115. That is a total increase of \$52,584 or approximately a 3% increase.

11. Under this proposal no employee is moved down or cut. Every employee will be on the Pay Plan in January 1998 at the proper location on the salary grade and range. And most important, no employee, after this budget year, will have to work without an increase, at least at the cost of living or Market Adjustment.

Please call if you have any questions.

The City Manager explained the Memorandum and recommended that the Allocation of Position Classes To Salary Grades be changed by 1) Moving Accounting Assistant from Salary Grade 9 to Salary Grade 10; and 2) by Moving Fire Suppression Officer from Salary Grade 10 to Salary Grade 11.

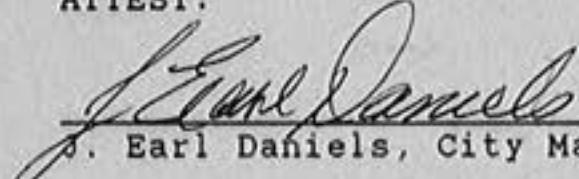
Councilman Edwards stated that the proposed amendments recommended satisfied his concerns with the Pay Plan and provide for only a \$52,584 increase in salaries which saves the City more funds than the other proposals. He complimented the City Manager on the proposed amendments. Upon a motion by Councilman Little, seconded by Councilman Martin, the City Council unanimously voted to adopt the Pay and Classification Plan prepared by Gene Dilman, Director of Personnel and Employee Relations Services with the N.C. League of Municipalities as amended, by moving Accounting Assistant from Salary Grade 9 to Salary Grade 10 and Fire Suppression Officer from Salary Grade 10 to Salary Grade 11 and providing for a 3% Market Adjustment of the pay plan on January 1, 1998.

**WATER/SEWER RATES - PROPOSED INCREASE FOR HIGH WATER USERS:** The City Manager presented two proposed schedules for rate increases. Schedule 1 provided for an estimated increase in revenues of \$50,771.16 and Schedule 2 provided for an estimated increase in revenues of \$93,279, both based on the May 1997 billing. The City Manager also presented the results of a survey conducted by the N. C. League of Municipalities giving a comparison of water/sewer charges of other towns the size of Marion. The survey showed that the water/sewer rates for large users was generally less than the other cities. The City Manager asked each member to study the proposal. He asked that consideration be given to the smaller increase this year with additional adjustments of several years. He informed Council that he proposes to meet with representatives of local industries regarding the rates prior to the Public Hearing on the Budget.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Edwards, the meeting was adjourned at 8:10 P.M.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 3, 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; Freddie Killough, DBA Director; Jennifer Watson, News Reporter, The McDowell News; Derrick Poteat, News Reporter; The Independent; Van McKinny, News Reporter, WBRM Radio.

GUESTS PRESENT: Mr. & Mrs. Wayne Pittman, Route 1, Box 162 Marion N.C. 28752; Geneva Hall Spencer, Hwy 226 South, Marion, N.C. 28752; Regina Church Ramsey, Route 1, Box 167 Marion, N.C. 28752; Rick Moore 1208 Hwy. 70 Marion, N.C. 28752; Woody Killough 100 Main Street Marion, N.C. 28752; Ted Duncan P.O. Box 816 Marion, N.C. 28752; Bobbie Young 544 Forest Heights Marion, N.C. 28752; Mr. & Mrs. Mike Ornberg 36 South Main Street Marion, N.C. 28752; Bill Griffith 28 South Main Street Marion N.C. 28752; Mr. & Mrs. Gene Smith P.O. Box 983 Marion, N.C. 28752; Kathy Rabb 305 South Garden Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the minutes of the May 20, 1997, May 20, 1997 Executive Session and the May 27, 1997 City Council Meetings.

UTILITY COMPLAINT - MR. GENE SMITH: Mr. Gene Smith appeared before Council explaining that he had been being billed a double water bill and that he only worked at his Barber Shop three or four hours a day.

The City Manager advised that City Policy requires all business' and/or apartments to have separate water meters. When this policy went into effect, Council agreed to allow property owners already on the water system with one meter serving two or more apartments or businesses or some combination thereof, to continue to use one meter rather than pulling up floors and having to do major replumbing to install additional meters. It was agreed that the owners of such facilities would have to pay a minimum on each separate business or dwelling unit whether occupied or not. The owners had the option to install separate water meters or to use a master meter.

A discussion followed.

Council agreed to refer this matter to the Utility Committee.

MUNICIPAL TAX DISTRICT: A number of property owners from the downtown area appeared before Council about the Municipal Tax District. Those appearing spoke in favor of continuing the Tax District. There was some discussion concerning redrawing the boundaries to include additional properties which may allow a reduction in the rate. It was agreed that Council would each take a city map and redraw the district and bring the maps to the next City Council meeting to begin the process of redefining the boundary. Councilman Little made a motion to leave the Municipal Tax District in place as is until the boundary can be redefined, to hold a public hearing on September 2, 1997, and to provide a \$10,000 contribution to the Downtown Business District in the 1997-98 Budget. This motion was seconded by Councilman Cuthbertson. All Councilman voted in favor of the motion except Councilman Edwards who voted against the motion. Councilman Edwards advised that he voted against the motion because he believed principally the boundary of the district was drawn unfairly and all the encompassing matter of it. He advised that he agreed with the restructuring of the district.

REQUEST - WAYNE PITMAN - REDUCED WATER TAP FEE: Mr. Pitman appeared before Council to request that he be allowed to connect to the City Water system at the same rate charged residents on Landis Loop Road. He advised that his property is also located in the same general area and that he would be effected in the same manner as the residents on Landis Loop. The City Manager presented a letter from County Manager Charles Abernathy

requesting that the City provide water connections at \$200 each for all residences located north of where Corpening Creek crosses N.C. 226. A short discussion followed. Upon a motion by Councilman Owenby seconded by Councilman Martin, Council voted unanimously to allow twelve property owners fronting on N. C. 226 South, located near the Landis Loop Project area, a reduced rate for water taps in the amount of \$200.00 each for 3/4 inch services. It was agreed by Council that no additional services would be provided at less than the regular tap rate charged by the City.

CITIZEN REQUEST - DRIVEWAY REPAIRS - MARIANNE TUCCI: The City Manager presented Council with a letter from Ms. Marriane Tucci advising that she would like the City to pay for repairs to her driveway on Martin Street. Over the past eight years City Trucks have turned around in her driveway, therefore she feels it fair to ask the City to make the repairs.

A discussion followed.

Council agreed to refer this request to the Street Committee.

The Street Committee agreed to meet at 9 A.M., Wednesday, June 11, 1997.

REQUEST - MS. ERMINE NEAL - RELOCATE METER: The City Manager advised that Ms. Neal is requesting the City to re-locate her water meter from the property side of the side-walk to the grass area between the sidewalk and curb. He advised that her service would not improve and the cost to the city would be considerable since a new gas line had been installed under the sidewalk.

A discussion followed.

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

TOWN OF OLD FORT - THANK YOU LETTER WITH OFFER TO PAY: The City Manager advised that the Town of Old Fort had a blocked sewer line and called for assistance from the City of Marion. City forces were sent to assist and open the blockage.

Mayor Wayne Stafford sent a letter of thanks to the City of Marion and offered payment for services by the City.

Council agreed not to charge the Town of Old Fort and expressed the importance of assisting each other when necessary.

ORDINANCE - SPRING STREET - ONE WAY - MAIN STREET TO GARDEN STREET: The City Manager presented Council with a Ordinance making Spring Street a one-way Street from Main Street to Garden Street. He informed Council that the Post Office is planning to change the traffic flow so that all vehicles will enter from Garden Street and exit on Main Street. He advised that traffic on Main Street would need to use State Street and/or Spring Street to get to the entrance to the Post Office.

A discussion followed.

Council agreed to hold this Ordinance until the Post Office begins the actual construction and it is determined that the direction of traffic flow is definitely going to change.

ORDINANCE - NO PARKING ZONE - EAST COURT STREET: Upon a motion by Councilman Martin, seconded by Councilman Little, Council voted unanimously to adopt the following Ordinance:

CITY OF MARION  
NORTH CAROLINA

ORDINANCE  
AMENDING SECTION 18  
MARION CITY CODE  
TRAFFIC SCHEDULE

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

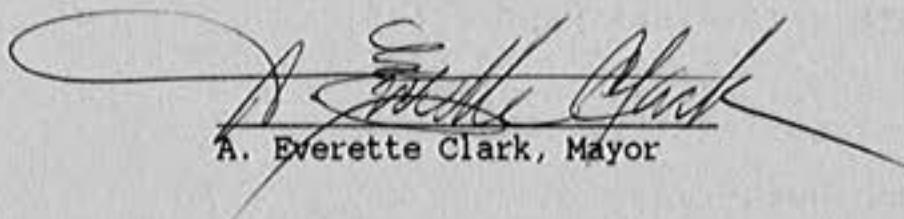
Section 1. That the Traffic Schedule under Section 18 of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

STREET NAME	SEC. 10-239	1982 CODE APP.	REG. TYPE	REG. LIMIT	REG. APPLICATION
COURT, E.	10-239	101	PARKING	PROHIBITED	SOUTH SIDE OF STREET, FROM SOUTH GARDEN STREET IN AN EASTERLY DIRECTION FOR A DISTANCE OF 63'
COURT, E.	10-239	101	PARKING	PROHIBITED	SOUTH SIDE OF STREET, FROM A POINT 230' EAST OF THE SE CORNER OF SOUTH GARDEN STREET AND EAST COURT STREET IN AN EASTERLY DIRECT- ION TO THE MARION CITY
COURT, E.	10-239	101	PARKING	PROHIBITED	NORTH SIDE OF STREET, FROM SOUTH GARDEN STREET IN AN EASTERLY DIRECTION TO THE MARION CITY LIMITS.
COURT, E.	18-240	102	PARKING	2 HOUR LIMIT	SOUTH SIDE OF STREET, FROM A POINT 63' EAST OF THE SE CORNER OF SOUTH GARDEN STREET AND EAST COURT STREET IN AN EASTERLY DIRECT- ION FOR A DISTANCE OF 167'.

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

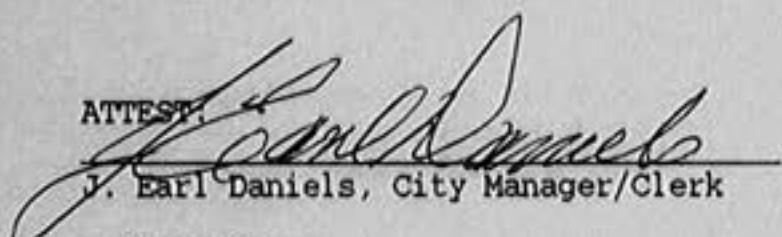
Section 3. The violation of any provision of this ordinance shall constitute a misdemeanor punishable in accordance with the provisions of section 1-10 of the Marion City Code.

Adopted this the 3rd day of June, 1997.



A. Everette Clark

A. Everette Clark, Mayor

ATTEST:  
  
J. Earl Daniels, City Manager/Clerk

0-97-06-03-1

**PINE GROVE PROJECT - INFORMAL BIDS:** The City Manager advised that the Department of Transportation is ready to pave Pine Grove Street. He advised Council that the sewer line proposed for installation on Pine Grove Street should be installed prior to the paving.

He informed Council that informal bids have been received for the installation of an eight inch sewer line, as part of the Morehead Road Annexation project.

The Bids were as follows:

McCormick Grading & Utilities	\$44,601.00
Hobson Construction Company	\$47,175.00
Terry Brothers Construction Co.	\$54,701.00

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to accept the low bid of McCormick Grading & Utilities in the amount of \$44,601.00.

HUMAN RESOURCE OFFICER - CITY MANAGER: The City Manager informed Council that Ronald Barnes had been appointed as Human Resource Officer for the City. Mr. Barnes has a Masters Degree in Public Administration with a concentration in Personnel Administration. He will fill the vacancy left by Ms. LuAnn Ellis. The Manager advised that 41 applications were received by the City. Ten applications were received from Marion. The Manager advised Council that the advertisement for the position was placed in the Asheville-Citizen since it covered all of Western North Carolina, as well as Marion and McDowell County, and also in the NCLM League Letter which also placed the notice on the internet. Council directed the Manager to also place employment advertisements in local papers in the future.

COUNCILMAN OWENBY COMMENTS: Councilman Owenby advised that he had received a complaint about the lights needing to be replaced on the track at East Junior High.

Councilman Owenby also advised that he felt the wording on the Weeds and Refuse Ordinance was a little harsh.

A discussion followed.

The Manager advised that it is necessary to have an Ordinance which sets height limits and methods of notification to allow for enforcement. He informed Council that City forces would not be notifying residents to mow grass as soon as it reaches six inches in height. That employees would use some common sense in the notification and enforcement.

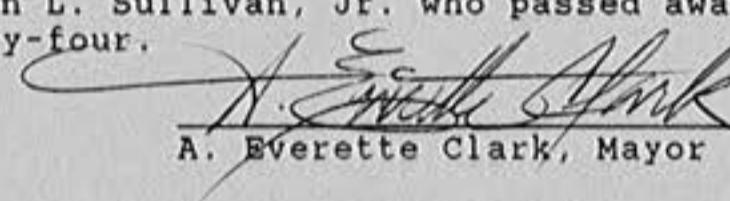
COUNCILMAN EDWARDS COMMENTS: Councilman Edwards advised that retired Assistant Fire Chief, John L. Sullivan, Jr., had recently passed away and he would like Council to adjourn in his memory.

COUNCILMAN MARTIN COMMENTS: Councilman Martin advised of the dangerous exit on the Marion by-pass where the young women was recently killed in an automobile accident. The City Manager was directed to send a letter to the DOT regarding the dangerous intersection.

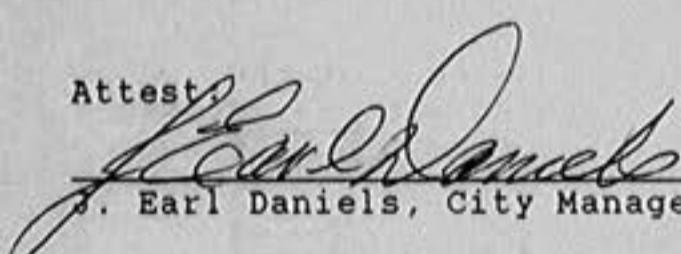
CITY MANAGER COMMENTS: (DEPARTMENT HEAD ATTENDANCE) The City Manager advised that he had advised Department Heads that they no longer needed to attend City Council Meetings unless he or Council requested their presence for a particular reason.

WASTE WATER TREATMENT PLANT: The City Manger presented pictures showing the flooding of the de-watering building and mud piled up in the front of the bays. He advised that the mud and trash came from across the highway from the landfill.

ADJOURNMENT: Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to adjourn at 10:00 P.M., in memory of Retired Assistant Fire Chief John L. Sullivan, Jr. who passed away Tuesday, May 27, 1997 at the age of eighty-four.

  
A. Everette Clark, Mayor

Attest

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 17, 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 Pro Tem Steve Little was not present for this meeting due to being on vacation.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Freddie Killough, DBA; Tom Milligan, Fire Chief; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Jennifer Watson, News Reporter, The McDowell News; Derrick Poteat, News Reporter, The Independent; Van McKinny, News Reporter, WBRM Radio.

GUESTS PRESENT: Virginia Russell, North Carolina Forest Service; John Reese, North Carolina Forest Service; Carl Deaton, Clinchfield, N.C. 28752; Phil Condrey, Clinchfield, N.C. 28752; Mr. & Mrs. Russell McNutt Route 3, Box 252 Marion, N.C. 28752; Jim Miller, Route 4, Box 592, Marion, N.C. 28752; Sim Butler 4 Forest Road, Marion N.C. 28752; Elizabeth House 105 Rutherford Road, Marion, N.C. 28752; Donna Fox 21 Spring Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to approve the minutes of June 3, 1997 City Council Meeting.

TREE CITY USA AWARD - PRESENTED BY MS. VIRGINIA RUSSELL: Ms. Virginia Russell of the North Carolina Forest Service in Raleigh appeared before Council. Ms. Russell presented Mayor Clark and the Marion City Council with the following awards:

10-Year Tree City USA Flag  
Brass Maple Leaf For Plaque Addition  
Two Tree City USA Signs  
Tree City USA 10-Year Award

REQUEST - PHILLIP CONDREY ON BEHALF OF RESIDENTS OF SIX STREET -  
CLINCHFIELD: Mr. Phillip Condrey appeared before Council representing residents of 6th Street in Clinchfield.

Mr. Condrey advised that their first concern was a drainage problem on 6th Street. The way the street is sloped large amounts of water run into yards and heavy rains end up in basements. Mr. Condrey stated that they would like to request some type of drainage or curbing to solve this problem.

Their second concern was heavy traffic in the evenings and on weekends from persons using 6th Street as a short cut from East Court Street to North Main Street.

A discussion followed.

It was agreed that the Street Committee will look into these requests and report back to Council.

REQUEST FOR CONTRIBUTION - AMATEUR ATHLETIC UNION: The City Manager presented Council with a Letter requesting the City to make a donation to the AAU Basketball Club.

No one was present regarding the request.

A short discussion followed.

No action was taken by Council.

REQUEST FOR DRIVEWAY REPAIRS - MS. MARIANNE TUCCI STREET COMMITTEE

REPORT: Members of the Street Committee met with Ms. Tucci on Wednesday Morning, June 11, 1997. Ms. Tucci is requesting that the City replace the broken concrete on the right-of-way in her driveway and would like the City to replace some concrete on her private property at the same time, with her paying for the materials for her private property. The estimated costs for the materials for her private property is \$140.00.

The Street Committee recommended approval of the request.

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

This work will be performed by City Crews.

**SELECTED VEGETATION REMOVAL PERMIT - TREE BOARD REQUEST TO DOT:** The City Manager advised that it is the recommendation of the City Tree Board that Council authorize the following letter to be sent to the Department of Transportation.

Mr. Tony Moore, P.E.  
District Engineer  
Department of Transportation  
Route 1, Box 169C  
Marion, North Carolina 28752

Dear Tony:

I met with Ms. Donna Garrison, with the Department of Transportation and several members of the City of Marion Tree Board on May 28, 1997 to discuss the landscaping project at the intersection of Sugar Hill Road and the Marion By-Pass. The tree planting project itself looks very attractive. However, the wild growth in the center of the island takes away from the attractiveness and hard work put into the project.

Please accept this letter as a request for a Selected Vegetation Removal Permit in this area, which would be supervised by Mr. John Reese with the North Carolina Forest Service.

We also discussed with Ms. Garrison the need to remove several trees in this area and would like to request permission to maintain a larger area behind the planting project.

Thank you for your assistance in this project.

Sincerely,

Glen Sherlin  
Public Works Director

Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, those members of Council present voted to authorize the letter as requested.

**CONTRACT TO AUDIT ACCOUNTS - JOHNSON, PRICE & SPRINKLE:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to accept the contract to audit accounts from Johnson, Price and Sprinkle in the amount of \$13,400.00 for fiscal year beginning July 1, 1997 and ending June 30, 1998.

A signed copy of the contract can be found on file in the Clerk's Office located at City Hall.

**ORDINANCE AMENDMENT - MASTER METERS - UTILITY COMMITTEE:**

Councilman Owenby reminded members that Mr. Gene Smith had asked Council why he was being doubled billed for water and sewer service when his barber shop was only open a few hours per week. The City Manager advised that city policy requires that every separate business, firm, mobile home or apartment or any combination thereof is required to have a separate water meter. He explained that Council adopted a policy to allow more than one unit to be served by a single meter where the costs to change the plumbing was too great to justify installing separate meters, in existing buildings. Under the terms of the policy, the owner would be billed for each separate unit, as if each unit had a separate meter, and each would be billed each month, whether occupied or not. The reason for billing for vacant units is the fact that the unit can be occupied at any time without any action on the part of the city, since the city does not turn the water service on and off. The City Manager suggested that Mr. Smith may wish to have separate meters installed for each unit. He stated that since Mr. Smith already has service to each of the units that the only charge would be a meter charge. A discussion followed.

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

CITY OF MARION, NORTH CAROLINA  
ORDINANCE AMENDING THE ORDINANCE ENTITLED  
ORDINANCE REGARDING MASTER METERS

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

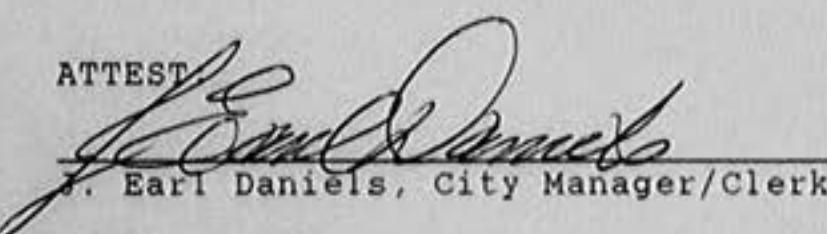
Section 1. That Section 2, of the Ordinance entitled Ordinance Regarding Master Meters as adopted by the Marion City Council on June 16, 1992 is hereby amended by adding the following:

"A separate unit shall be defined as any unit having separate rest room facilities."

Adopted this the 17th day of June, 1997.

  
A. Everette Clark, Mayor

ATTEST

  
Earl Daniels, City Manager/Clerk

0-97-06-17-1

**WATER SERVICE - GROUP HOME - ROCKY PASS - UTILITY COMMITTEE REPORT:** The Utility Committee recommended that Council authorize the Group Home at Rocky Pass to connect to the existing water main for \$200.00 for a 3/4 inch connection. The Home would be responsible for running a water line to the City Main Water line at their expense and would also have to obtain any necessary right-of-way from any private property owners.

**TAX ADJUSTMENTS - REPORT FROM TAX COLLECTOR:** The City Manager presented a tax adjustments report from Tax Collector Claudia Hill. For the years 1994-1996 the total for Real Property, Personal property, Municipal Tax, Late Listing and Interest is \$31,757.91. A breakdown of the tax payers, reasons for adjustments, amounts and other information presented may be found on file in the Tax Collectors Office.

Upon a motion by Councilman Owenby, seconded by Councilman Edwards, those members of Council present voted to approve the adjustments as presented.

**WATER/SEWER RATES - PROPOSED MEETING WITH LARGE WATER USERS:** The City Manager informed Council that he would like to have a public meeting with large water users to explain the need for a proposed rate increase for large water users. He advised that trying to talk with each on a one to one basis would be very time consuming and that submitting letters may just be more confusing. He stated that after meeting with the group, he would be happy to meet with any individual firm wishing to do so. The City Council approved his request.

**PUBLIC HEARING ON 1997-98 CITY BUDGET - BUDGET ORDINANCE:** The City Manager opened the Public Hearing. The City Manager informed Council that on page 59, under Section 1., the amount under Total should be \$3,045,972, not \$3,045,942. Mayor Clark asked if anyone present would like to address Council regarding the proposed Budget or any part of the Budget. Mr. Jim Miller, Ms. Elizabeth House, Ms. Donna Fox and Ms. Russell McNutt spoke to Council about the city's contribution to McDowell Arts and Crafts. They informed Council that MACA had already been cut by the State on a grant fund and asked Council not to cut the City contribution to MACA. It was pointed out that Council had agreed to provide a \$1,000 contribution to Family Services, Chamber of Commerce, MACA, and the McDowell Care Center. Councilman Cuthbertson informed Council that it seemed a little unfair to provide the same contribution to McDowell Care Center this year that they received last year but then to cut MACA from \$10,000 to \$1,000. Mayor Clark suggested that Council consider giving each 50% of last years contribution. A discussion followed. Councilman Owenby advised that he would like to help all of the agencies but believed the Council should stick to their decision in making the cuts.

Councilman Edwards reminded everyone that Council had discussed the matter in detail about city residents not having to pay more than what they are paying as County residents, unless city residents receive more services to justify the additional contribution.

There were no other comments or questions.

The City Manager closed the Public Hearing.

Councilman Cuthbertson made a motion that the agencies named be provided a contribution amounting to 50% of the amount contributed by the city in the 1996-97 Budget. This motion was seconded by Councilman Martin and the vote was as follows: Ayes: Councilmen Cuthbertson, Martin, and Edwards. Noes: Councilman Owenby.

Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted unanimously to approve the following Ordinance:

BUDGET ORDINANCE

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

Section 1. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the fiscal year beginning July 1, 1997 and ending June 30, 1998 in accordance with the chart of accounts heretofore established by the City:

Administration	\$ 335,000
Purchasing and Warehousing	66,120
Inspection	95,200
Police Department	855,900
Fire Department	221,440
Public Works Administration	90,300
Fleet Maintenance	66,150
Street Department	572,300
Sanitation	356,850
Recreation	45,900
Cemetery	27,000
Non-Departmental	313,812
<b>TOTAL</b>	<b>\$ 3,045,972</b>

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Prior Year's Taxes	\$ 30,000
Current Taxes - 1997	1,015,928
Vehicle Tax	102,000
Inventory Taxes	187,642
Downtown Dev.Mun.Ser.Dist.	11,700
Tax Penalties & Interest	10,500
Privilege License Sales	18,000
Interest Earned	50,000
Rents and Concessions	13,000
Misc. Revenues	15,000
Utilities Franchise Tax	309,000
Intangibles Tax	34,500
Beer/Wine Revenue	20,149
Sales and Use Tax	442,000
Sales Tax Refund	20,000
ABC Revenues	115,000
ABC Officer Revenues	5,000
Court Costs, Fees & Charges	3,000
Parking Violations	1,200
County Fire Protection	71,010
County Contribution-Recycling	26,400
Cemetery Revenues	5,000
Garbage Fees	65,000
Gas Tax Refunds	8,500
Zoning Income - Inspection Fees	10,000
Sale of Garbage/Leaf/Recycling Bags	700
Maint. Traffic Control Devices	3,000
Cable TV Revenues	26,000
Sales of Surplus Equipment	5,000
Contribution for W/S Fund	100,000
Fund Balance	259,889
<b>TOTAL</b>	<b>\$ 3,045,972</b>

Section 3. The following amounts are hereby appropriated in the Powell Bill Fund for Street Maintenance, including curb and gutter work, sidewalk work, storm drainage and other expenses relating thereto for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Professional Services	\$ 2,000
Department Supplies	70,000
Contracted Services	148,064
<b>TOTAL</b>	<b>\$ 220,064</b>

Section 4. It is estimated that the following revenues will be available in the Powell Bill Fund for the fiscal year beginning July 1, 1997 and ending on June 30, 1998:

Interest Earned	\$ 2,500
Powell Bill Allocation	165,000
Sales Tax Refund	2,000
Fund Balance - Prior Year	50,564
<b>TOTAL</b>	<b>\$ 220,064</b>

Section 5. The following amounts are hereby appropriated in the Water/Sewer Fund for operation of Water and Sewer Utilities for the fiscal year beginning July 1, 1997 and ending on June 30, 1998 in accordance with the accounts heretofore approved for the City:

Utility Line Operations	\$ 763,800
Filter Plant	388,300
Waste Treatment Plant	622,200
Non-Departmental	518,917
<b>TOTAL</b>	<b>\$ 2,293,217</b>

Section 6. It is estimated that the following revenues will be available in the Water/Sewer Fund for the fiscal year beginning July 1, 1997 and ending July 30, 1998:

Fund Balance	\$ 354,909
Interest Earned	3,500
Misc. Income	10,000
Reimbursement - Septic	3,000
Water Sales	580,000
Cut on Fees	40,000
Sewer Service	497,000
Water Taps	12,000
Sewer Taps	40,000
Sales & Use Tax Refund	200,000
Tank Truck Charges	1,000
Water Service Charge	371,232
Sewer Service Charge	180,576
<b>TOTAL</b>	<b>\$ 2,293,217</b>

Section 7. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Inventory (Supplies)	\$ 130,000
----------------------	------------

Section 8. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Transfer from General Fund	\$ 5,000
Transfer from W/S Fund	5,000
Purchase by Other Funds	120,000
<b>TOTAL</b>	<b>\$ 130,000</b>

Section 9. The following amounts are hereby appropriated in the Capital Reserve Fund for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Reserve for future appropriations:	\$ 252,596
------------------------------------	------------

Section 10. It is estimated that the following revenues will be available in the Capital Reserve Fund for the fiscal year beginning July 1, 1997 and ending June 30, 1998:

Transfer from General Fund	\$ 25,000
Transfer from W/S Fund	0
Interest on Investments	10,700
Fund Balance Appropriated	216,896
<b>TOTAL</b>	<b>\$ 252,596</b>

Section 11. There is hereby levied a tax at the rate of fifty-five (\$.55) per one hundred (\$100) valuation of property as listed for taxes as of January 1, 1997 for the purpose of raising the revenue listed as "Current Year Property Taxes" in the General Fund in Section 2 of this Ordinance. These rates are based on estimated total valuation of property for the purpose of taxation of \$204,125,313.00 and estimated rate of collection of 96%. There is also hereby levied a tax at the rate of twelve cents (\$.12) per one hundred dollars (\$100.00) valuation on all commercial taxable

property in the Municipal Service District (MSD estimated value \$10,450,000.). The total revenue received will be transferred to the Downtown Business Association.

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

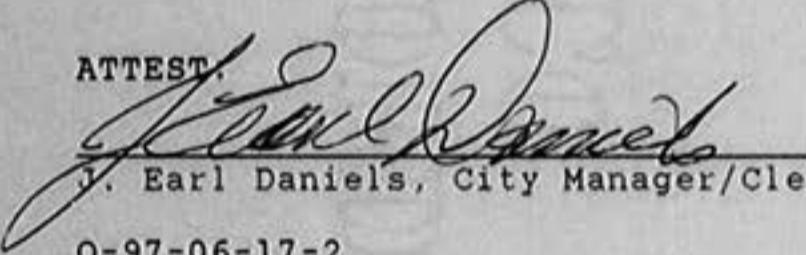
- A. He may transfer amounts between objects of expenditure within a department without limitation and without a report being required.
- B. He may transfer amounts up to \$1,000.00 between departments of the same fund with an official report on such transfers at the next regular meeting of the City Council.
- C. He may not transfer any amounts between funds nor from any contingency appropriation within any fund.

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

ADOPTED this the 17th day of June, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

0-97-06-17-2

**1996-97 BUDGET ORDINANCE - FIRST AMENDMENT - DESIGNER HARDWOOD:** Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance:

**CITY OF MARION, NORTH CAROLINA  
1996-97 BUDGET ORDINANCE  
FIRST AMENDMENT**

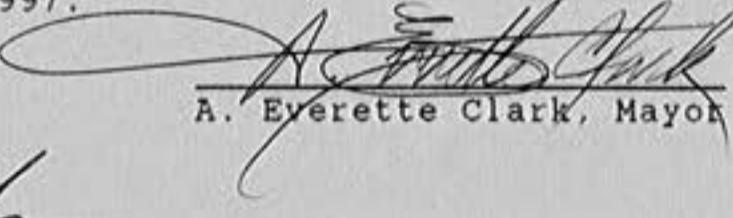
BE IT ORDAINED by the City Council for the City of Marion, North Carolina:

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 1996-97 as adopted by the City Council on the 18th day of June 1996, is hereby amended as follows:

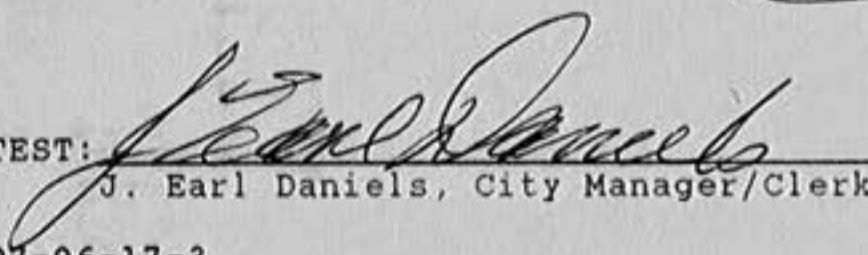
- a. Water and Sewer Expenditures, Non Departmental Account Number 30-660-96 - INS., BONDS, WORKERS COMP., is decreased from \$90,000 to \$77,500.
- b. Water and Sewer Expenditures, Non Departmental Account Number 30-660-95 - TRANSFER TO CAPITAL PROJECT BUDGET ORDINANCE TO EXTEND WATER AND WASTEWATER UTILITIES FOR DESIGNER HARDWOODS, INC., IS INCREASED FROM \$0.00 TO \$12,500.

Section 2. Copies of this Budget Amendment shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 17th day of June, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

0-97-06-17-3

**CAPITAL PROJECT BUDGET ORDINANCE TO EXTEND WATER AND WASTEWATER UTILITIES FOR DESIGNER HARDWOODS, INC.:** Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance:

**CAPITAL PROJECT BUDGET ORDINANCE  
TO EXTEND WATER AND WASTEWATER UTILITIES  
FOR DESIGNER HARDWOODS, INC.**

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

Section 1. The following amounts are hereby appropriated in the Capital Project Budget - To Extend Water and Wastewater Utilities For Designer Hardwoods, Inc. - for construction of various water and sewer facilities, including engineering fees, administrative and technical services:

Construction Costs	\$ 39,500
Engineering Fees	6,550
Contingency	3,950
Total Project Costs	\$ 50,000

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

N.C. Department of Commerce - IDF	\$ 37,500
Local Funds	12,500
Total Revenues	\$ 50,000

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

ADOPTED this the 17th day of June 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

O-97-06-17-4

**RESOLUTION - DESIGNER HARDWOODS - OPENING AND MAINTAINING A DEPOSIT ACCOUNT:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to adopt the following Resolution:

**RESOLUTION**

**CITY OF MARION  
CAPITAL PROJECT BUDGET ORDINANCE  
TO EXTEND WATER AND WASTEWATER UTILITIES  
FOR DESIGNER HARDWOOD, INC.**

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 used 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,

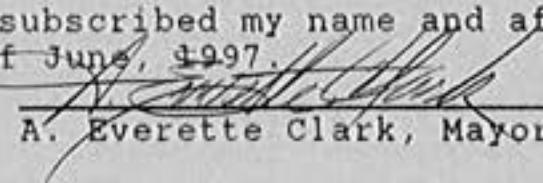
Further Resolved, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with NationsBank, N.A. (Carolinas) prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved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

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

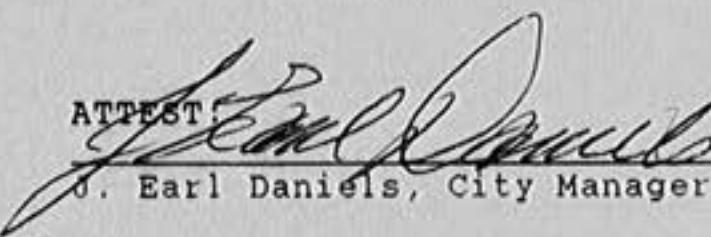
I further certify that the following are the names of the present officers of this Corporation:

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 17th day of June, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

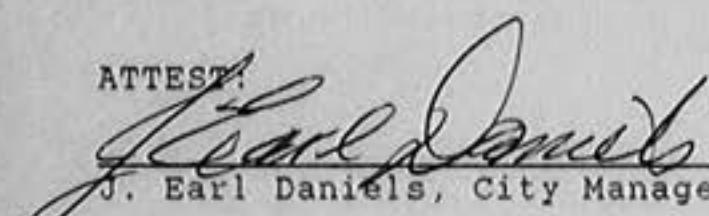
R-97-06-17-1

**BUILDING INSPECTIONS OFFICE:** The City Manager advised Council that Friday, June 27, 1997 will be Ron Evans last day as Building Inspector. Ron has accepted a job with the City of Asheville. The City Manager also advised that the position would be advertised in both local papers and in the League of Municipalities League letter.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Special Session on Thursday morning, June 26, 1997 at 8:00 A.M. in the Conference Room located at 200 North Main Street.

**BOARD MEMBERS PRESENT:** In the absence of Mayor A. Everette Clark, Mayor Pro Tem Steve Little presided over this meeting. Councilmen Lloyd Cuthbertson and Cecil Owenby were also present.

**BOARD MEMBERS ABSENT:** Mayor A. Everette Clark was out of town on Vacation.

Councilman Billy Martin was out of town on Vacation.

Councilman Edwards did not attend this meeting.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director.

**GUESTS PRESENT:** None

**RESOLUTION - TO APPROVE THE McDOWELL THE McDOWELL COUNTY SOLID WASTE PLAN:**  
Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Resolution:

CITY OF MARION  
NORTH CAROLINA

RESOLUTION  
TO APPROVE THE McDOWELL COUNTY SOLID WASTE PLAN

WHEREAS, better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and,

WHEREAS, NC General Statute 130A-309.09A(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 10-year comprehensive solid waste management plan; and,

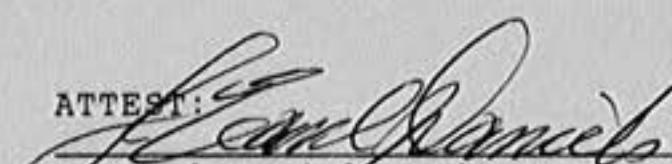
WHEREAS, the City of Marion was represented on the McDowell County Planning Advisory Committee and has been actively involved in the planning process;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion hereby approves the McDowell County comprehensive solid waste management plan.

Adopted this 26th day of June, 1997.

  
Steve Little, Mayor Pro Tem

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**AGREEMENT - FOR THE CITY OF MARION TO PERFORM ROUTINE MOWING ON DESIGNATED ROUTES IN McDOWELL COUNTY:** Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to approve the Agreement with the Department of Transportation as follows:

STATE OF NORTH CAROLINA  
COUNTY OF McDowell

DEPARTMENT OF TRANSPORTATION  
AND

AGREEMENT

CITY OF MARION

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

WITNESSETH

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

THAT, THEREFORE, the parties do mutually agree as follows:

1. The City shall perform the following work:

Routine mowing of the routes shown on the following streets:

Rd #	From	To	Length	Shoulder Mile	Cost/Cycle
US 70	US 221B	E. City Limit	1.84	3.68	85.01
US 70E	US 221B	Hillcrest	0.16	0.32	7.39
US 70W	US 70	SR 1500	0.22	0.44	10.16
US 221B	US 70E	City Limits	1.84	3.68	85.01
US 221B	S. Main	City Limits	1.70	3.40	78.54
SR 1001	US 221B	City Limits	1.51	3.02	69.76
SR 1195	US 221B	SR 1206	0.58	1.16	26.80
SR 1500	N. Garden	City Limits	0.60	1.20	27.72
SR 1501	SR 1500	City Limits	0.20	0.40	9.24
SR 1325	SR 1323	City Limits	0.77	1.54	35.57
SR 1195	SR 1206	City Limits	0.70	1.40	32.34
SR 1818	US 70	State Street	0.16	0.32	7.39
		TOTALS	20.56		474.93

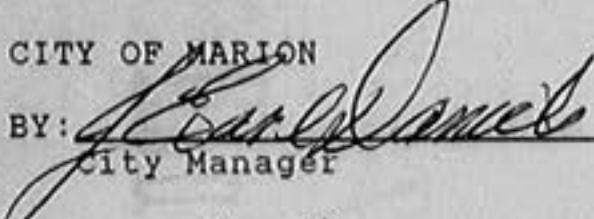
2. The City shall furnish all the necessary personnel, labor, equipment, traffic control and material for the performance of said work.

3. In consideration of the performance of said work, the Department shall reimburse the City upon receipt of an invoice detailing quantity and type of mowing cycles performed. Payment will be made in a single lump-sum amount at the end of the mowing season.

4. Reimbursement for the performance of said work is the estimated cost of \$474.93 per cycle.

5. This agreement is entered into and executed by the State Highway Administrator on behalf of the Department of Transportation in accordance with G.S. 136 of the N.C.G.S. and G.S. 143B-24 where applicable.

CITY OF MARION

BY:   
City Manager

DEPARTMENT OF TRANSPORTATION

BY: \_\_\_\_\_  
State Highway Administrator

(seal)

Approved As To Form and Execution  
MICHAEL F. EASLEY, Attorney General  
By \_\_\_\_\_

Attorney General

INFORMAL BIDS - MOREHEAD ROAD ANNEXATION - SEWER SYSTEM IMPROVEMENTS: The City Manager advised that three informal bids were received on the 8-inch sewer lie on Miller Avenue.

The bids were as follows:

McCormick Grading & Utilities-	\$78,650.00
Terry Brothers Construction Co.-	\$83,557.00
Hobson Construction Company -	\$86,385.00

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to accept the low bid of McCormick Grading & Utilities in the amount of \$78,650.00.

**INFORMAL BIDS - WOODLAND DRIVE SEWER LINE REPLACEMENT:** The City Manager advised that the sewer line on Woodland Drive where the Pine Grove Street sewer line connects is too small and has to be replaced.

The bids were as follows:

Hobson Construction Co., Inc.	\$9,232.00
McCormick Grading & Utilities, Inc.	\$14,241.00

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to accept the low bid of Hobson Construction Co. in the amount of \$9,232.00.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adjourn.

*Steve Little*

Steve Little, Mayor Pro Tem

ATTEST:

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

STATE OF NORTH CAROLINA  
COUNTY OF McDowell  
CITY OF MARION

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

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruitt, Police Chief; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Jennifer Watson, News Reporter, The McDowell News; Van McKinny, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Gary McGill, McGill Associates, Asheville, N.C. Gary Arnold, Oak Street, Marion, N.C. 28752

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the minutes of the June 17, 1997 and June 26, 1997 City Council Meetings.

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

**PUBLIC HEARING - APPLICATION - COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS:** The City Manager opened the Public Hearing. The City Manager stated that the purpose of the Public Hearing is to notify residents that six applicants have decided not to participate in the Community Development Block Grant Program and have been replaced with another six applicants whose applications were already on file.

No citizens were present to discuss this issue.

The Public Hearing was closed.

Several questions were raised by Council regarding obligations to the applicants. The City Manager advised that representatives of the Isothermal Planning and Development Commission were required to go over all requirements and obligations with all applicants. Basically, applicants are not allowed to sell their property within five years of the renovations paid for by grant funds under the program. Requirements to qualify depend on the applicants income.

There were no objections to the change in applicants.

**GARY MCGILL - UPDATE ON PROJECTS:** Mr. Gary McGill reviewed with Council a Project Status Report given to Council prior to the meeting.

Mayor Clark expressed concern about the length of time it is taking to bring closure to some of the projects, primarily the Clear Well project and the Reservoir Project. Mr. McGill assured Council that the end of these projects is now in sight. He expressed his frustration in trying to bring closure to some of the projects. He informed Council that his firm had spent thousands of dollars just trying to bring all the parties to the table to discuss warranty work and how the costs were to be divided. He

stated that both projects should be completed by September, excluding any additional warranty work.

**REQUEST - NOISE ORDINANCE - 4TH OF JULY PARADE:** A letter was presented to Council from Mr. Jack R. Shafer complaining about the use of electronic sirens and air horns in the 4th of July Parade by Public Safety Departments. His letter reminded Council that he had addressed this issue before. It was agreed that Ms. Freddie Killough, Executive Director of the Downtown Business Association would be asked to direct that air horns and sirens not be used during parades in the City.

**RECYCLING SERVICE AGREEMENT - GDS:** Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to approve the following Agreement:

STATE OF NORTH CAROLINA  
CITY OF MARION

RECYCLING SERVICE AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_ day of July, 1997, by and between the City of Marion, a municipal corporation existing under the laws of the State of North Carolina, party of the first part (hereinafter referred to as "City"), and GARBAGE DISPOSAL SERVICE, INC., a corporation duly organized, created and existing under the laws of the State of North Carolina, party of the second part (hereinafter referred to as "GDS"):

WITNESSETH:

THAT WHEREAS, City has requested GDS to operate a recycling program for designated businesses; and

WHEREAS, GDS is in the business of collecting and hauling recyclables in accordance with all applicable county, state and federal laws, rules and regulations; and

WHEREAS, City and GDS desire to enter into an exclusive Recycling Service Agreement beginning August 1, 1997, setting forth their rights, agreements and obligations, and this agreement shall end on July 31, 1999.

NOW THEREFORE, in consideration of the covenants and agreements of the parties hereinafter set forth, the parties agree as follows:

1. Description of Services.

A. GDS agrees to collect old corrugated containers (hereinafter referred to as "OOC"), and Bag-it materials (defined on Exhibit B) from containers at business locations to be designated by the City. The initial sites, the size of recycling containers and pickup schedules are set forth on Exhibit A attached hereto and made a part hereof.

B. This recycling program is designed to recover clean, recyclable OCC and "Bag-it" program materials consisting of recyclable paper products and aluminum cans as referred to on Exhibit B attached. Bag-it recyclables must be deposited in "blue bags" as specified by GDS. The City shall make blue bags available to participants.

C. The equipment in this recycling program shall consist of bulk dumpsters available in 4, 6, and 8 cubic yard sizes. The equipment furnished hereunder by GDS shall remain the property of GDS. The routine maintenance of the equipment owned by GDS shall be the responsibility of GDS. City agrees to adjust dumpster size, at any site, that may be overweight or overloaded.

2. TERM.

This contract (herein "Recycling Service Agreement") shall commence AUGUST 1, 1997. City grants to GDS the right to collect all of site's recyclable materials as defined on Exhibit B until July 31, 1999. The term of this Agreement shall be automatically reviewed for like terms thereafter unless either party shall give written notice of termination by certified mail to the other at least sixty (60) days prior to the termination of the initial term or any renewal term.

3. Sites.

The City shall select site locations for the recycling dumpsters, and GDS shall approve locations.

A. Recycling dumpsters will be designed to be lockable to help control contamination and unauthorized users. The City shall instruct

customers to unlock the top lids of the dumpsters before or prior to pickup by GDS personnel.

B. The City and GDS shall work jointly to educate the users of the OCC and Bag-It recycling program. GDS shall furnish the guideline information on the "OCC" and "Bag-It" programs.

C. The City will enter into a contract with all users of the recycling dumpsters at the sites. Each user will sign an acknowledgment stating that they have read and understand the guidelines for acceptable recyclable material. The guidelines are set forth on Exhibit B attached. The City will specifically instruct all "Bag-It" Program participants that the disposal into the recycling dumpsters of any material other than those listed as acceptable shall constitute contamination material and is strictly forbidden. GDS is to furnish City with contamination reports. Any report of continued contamination by any participant in the Program can result in their discontinued service.

4. Fees.

As compensation for GDS services rendered, the City agrees to pay GDS as follows:

A. City agrees to pay a monthly fee based on the size and frequency of dumpster listed on Exhibit A and subject to the rates on Exhibit C. Payment shall be made within 15 days from GDS billing date.

B. The fees set forth in Exhibit C shall be adjusted annually on August 1 of each calendar year during the term of this contract. The Base CPI shall be the CPI published for January, 1997. The first annual adjustment shall be made for the period ending July 31, 1998, and shall use January, 1997 CPI figures to compute the rate. The January figures for each successive year shall also be used so that the rate can be known prior to the end of the City's fiscal year. The fees shall be adjusted to reflect changes to the cost of doing business as measured by the CPI ("CPI" means the index whose full title is "United States Bureau of Labor Statistics, CPI, for All Urban Consumers, All Items, U.S. City Average (1982=100)" and any comparable index, there shall be substituted for the CPI such alternative index as the parties shall agree on.

C. Changes to the type, size of equipment, frequency of service, and corresponding adjustment to rates, must be made by mutual agreement evidenced in writing by and authorized liaison of City and GDS. The rate schedule shall be referenced to and set forth as Exhibit C.

5. Operation Hours.

GDS does not obligate itself to render service on weekends or legal holidays

6. GDS Equipment and Indemnity.

GDS agrees that all trucks used for the collection and hauling of recyclables shall be maintained in a safe operating condition at all times and that all drivers shall be properly licensed to operate the vehicles utilized, and GDS further agrees to be solely responsible for any and all acts of negligence by its agents, contractors and employees and to maintain liability insurance and to indemnify and save the City harmless from and all civil liability whatsoever arising out of the operation of vehicles of GDS and any acts of the agents and employees of GDS.

7. Compliance With Laws.

GDS agrees to comply with the City of Marion Ordinance and any and all other county, state and federal ordinances, laws, rules and regulations applicable to the collection and hauling of said recyclables.

8. Default.

That in the event either party shall fail to observe or perform any of the terms or covenants of this Agreement, the other party shall give notice in writing

of such default. In the event such default is not cured within thirty (30) days from the date of such notice, the non-defaulting party may cancel this Agreement.

9. **Notice.**

All notices required under this Agreement shall be deemed to be properly served if delivered in writing, personally or sent by certified or registered mail with return receipt requested to,

Garbage Disposal Service, Inc.  
PO Box 2943  
Hickory, NC 28603

or

City of Marion  
PO Box 700  
Marion, NC 28752

or, to any subsequent address which either may designate for such purpose. Date of service of a notice served by mail shall be the date on which such notice is deposited in a post office of the United States Post Office Department.

City and GDS each agree to assign a liaison person from their respective offices to work out any problems or complaints that may arise under this agreement.

10. **Binding Effect.**

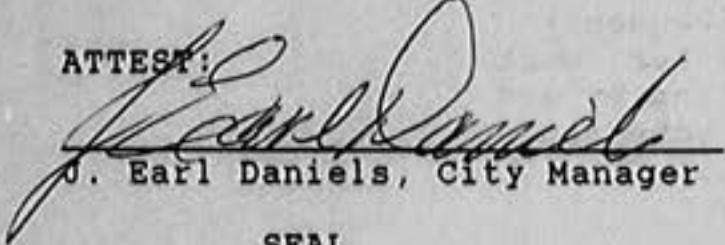
This contract shall be binding upon the successors and assigns of the parties hereto.

11. **Entire Agreement.**

This Agreement constitutes the entire agreement of the parties and shall not be amended except in writing and signed by all parties to this Agreement.

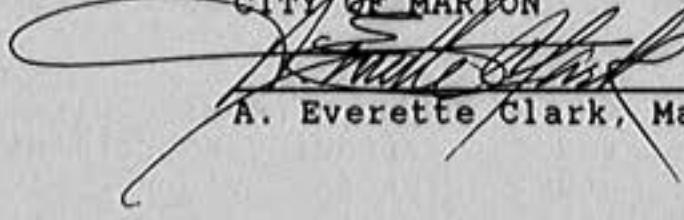
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in duplicate originals, in their respective names, by the appropriate officers of their respective governing boards, the day and year first above written.

ATTEST:

  
J. Earl Daniels, City Manager

SEAL

CITY OF MARION

  
A. Everette Clark, Mayor

GARBAGE DISPOSAL SERVICE, INC.

ATTEST:

Drew Isenhour, General Manager

Mark Huffman, Asst. Secretary

Corporate Seal

**PIPELINE CROSSING AGREEMENT:** The City Manager presented Council with a Pipeline Crossing Agreement from CSX Transportation, Inc. He informed Council that the proposed agreement allowed for the installation of a sewer line under the railroad tracks to provide service to the Designer Hardwood Project, already approved by Council. He advised that another agreement would be coming from Norfolk and Southern.

A discussion followed.

It was decided to have the City Attorney review the Agreement, and report to Council by the July 22, 1997 City Council Meeting, and to send Mr. Terry Smith a copy of same.

**LAW ENFORCEMENT EXPLORER POST:** The City Manager presented Council with a memo from Chief Pruett requesting permission for the Police Department to sponsor a law enforcement explorer post.

A discussion followed.

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

**ANNUAL CERTIFICATION OF FIREMEN:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to certify the below roster as a valid and accurate list of all eligible firemen of the Marion Fire Department.

CO.	DEPT.	LASTNAME	FIRSTNAME	MI	SSN
58	0617	ANDERSON	DONALD	R	239-80-7486
58	0617	COWARD	JAMES	M	241-02-3270
58	0617	CRESON	DURWOOD	R	244-33-4498
58	0617	DARK, III	R	M	242-86-7797
58	0617	EDWARDS	BRUCE	A	237-56-0350
58	0617	HARMON	BRADFORD	H	238-29-6035
58	0617	HOLLIFIELD	DARREN	W	242-41-2588
58	0617	LAUGHRIDGE, JR.	JOHN	C	244-04-1898
58	0617	LAUGHRIDGE, JR.	JOHN	M	239-80-7405
58	0617	LAWS	BRYAN	M	246-45-6035
58	0617	LAWS	DENNIS		237-04-1211
58	0617	MACE	TRAVIS	D	245-43-0824
58	0617	MCCARTHY	ROGER	W	241-88-7093
58	0617	MCINTOSH	ERIC	L	237-19-0233
58	0617	MILLIGAN	THOMAS	S	244-68-1106
58	0617	MORRIS	JIMMY	W	245-08-7939
58	0617	MORROW, III.	JOHN	M	237-29-3604
58	0617	NANNEY	FREDRICK	C	242-11-1035
58	0617	NEAL, III	JAMES	E	245-72-9325
58	0617	OWENBY	KEVIN	W	245-27-8330
58	0617	POTEAT	JERRY	W	244-66-3485
58	0617	POTEAT	KENNETH	W	240-15-9682
58	0617	POTEAT	KEVIN	W	244-49-6470
58	0617	PRESNELL, JR.	CHARLES	L	238-82-9830
58	0617	REESE	JOHN	E	242-82-7999
58	0617	SMITH, III	WILLIAM	R	245-44-5503
58	0617	SUTTLE, JR.	CHARLES	G	239-84-9781
58	0617	TAYLOR	CAMERON	K	241-55-2965
58	0617	TIPTON	KEVIN	D	243-53-7790
58	0617	WILSON	BRYAN	W	241-80-2625

**REQUEST - MR. FRED WILLIAMS - PINEGROVE PROJECT:** The City Council was advised that Mr. Fred Williams had given the City, without charge, a right of way to install a sewer line across his property located at 508 Woodland Drive, on the conditions, the City would provide proper drainage, provide a connection to the sewer for a spa, and restore his property following the work. Mr. Williams was given the option of having corrugated pipe installed or rip rap to provide for the drainage across his property. He selected the installation of rip rap across the property but now wishes to have that removed and replaced with corrugated pipe.

This matter was referred to the Street Committee. The Street Committee set Wednesday July 9, 1997 at 9:00 A.M. for this meeting.

**COUNCILMAN EDWARDS** advised that he has received complaints from citizens about persons being offended while walking in the evenings in the downtown area.

A discussion followed.

Police Chief Tom Pruett was asked to look into the matter.

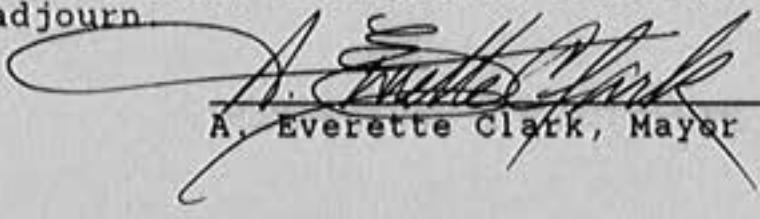
**COUNCILMAN MARTIN** commended the Public Works Department for the good work that was done installing concrete curb and gutter on Ridley Street and asked the Public Works Director to relay this to the City Employees responsible for the work.

**CLOSED SESSION:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to go into Closed Session to discuss a Personnel Matter.

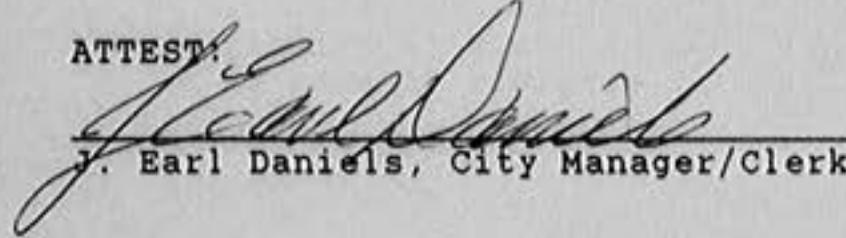
**REGULAR SESSION:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to go back into Regular Session.

**CITY MANAGER'S SALARY:** Upon a motion by Councilman Martin, seconded by Councilman Little, the City Council unanimously voted to increase the City Manager's salary by three percent (3%) effective in January 1998.

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

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, July 22, 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, Billy Martin and Cecil Smith.

Councilman Edwards arrived for this meeting at 8:05 P.M. due to attending a funeral.

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; Don Dillingham, News Reporter, The Independent Paper; Freddie Killough, DBA.

GUESTS PRESENT: Stephanie Shipe, P.O. Box 1545, Marion, N.C. 28752; Gary Arnold, 615 Oak Street, Marion, N.C. 28752.

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 June 8, 1997 City Council Meeting.

PUBLIC HEARINGS:

ZONING ORDINANCE AMENDMENTS-ARTICLE VII. GENERAL PROVISIONS, ETC. The City Manager opened the Public Hearing.

The City Manager presented the following request and recommendation to Council from the Planning Board:

Mr. Stevens, owner of Bud's Garage, appeared before the Marion Planning Board on July 17, 1997, requesting an amendment to Article VII. General Provisions, Section 707. off-premise Signs and other Advertising Structures, 707.5 Directional Signs. Mr. Stevens asked that the maximum sign of an off-premise directional sign be increased from eight (8) square feet to thirty-two (32) square feet.

The City Council was advised that no motion was made by the Planning Board to amend this section.

There was no one present to regarding this request.

A discussion followed.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to deny the request.

ZONING ORDINANCE AMENDMENT - REZONE PROPERTY ON SOUTH MAIN STREET: The City Manager opened the Public Hearing.

The City Manager presented the following request and recommendation to Council from the Planning Board:

The Marion Planning Board considered a request from Rex and Barbara Robinson to rezone property they own located on the north-east corner of the intersection of South Main Street and Spring Street from C-2 General Business District to R-2 General Residential District. This is two lots (two dwellings) under one deed.

It is the recommendation of the Planning Board that the property be rezoned from C-2 General Business District to R-2 General Residential District as requested.

There was no one present regarding the request.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to rezone the property located on the north-east corner of the intersection of South Main Street and Spring Street from C-2 General Business District to R-2 General Residential District as recommended by the Planning Board.

~~ZONING ORDINANCE REZONE PROPERTY AT 21 SPRING STREET: The City Manager opened the Public Hearing.~~

~~The City Manager presented the following request and recommendation to Council from the Planning Board:~~

*[Signature]*

**ZONING ORDINANCE REZONE PROPERTY AT 21 SPRING STREET:** The City Manager opened the Public Hearing.

The City Manager presented the following request and recommendation to Council from the Planning Board:

The Marion Planning Board considered a request from Brenda Silkwood and Donna Soto to rezone property they own located at 21 Spring Street from C-2 General Business District to R-2 General Residential District.

It is the recommendation of the Marion Planning Board that the property be rezoned as requested.

No one was present regarding this request.

A discussion followed.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to rezone the property located at 21 Spring Street from C-2 General Business District to R-2 General Residential District as recommended by the Planning Board.

**ZONING ORDINANCE AMENDMENT REZONE PROPERTY LOCATED AT THE INTERSECTION OF SPRING STREET AND SOUTH GARDEN STREET:** The City Manager opened the Public Hearing.

The City Manager presented the following request and recommendation to Council from the Planning Board:

The Marion Planning Board considered a request from Geneva Hall to rezone property she owns located on the north-west corner of the intersection of Spring Street and South Garden Street from C-2 General Business District to R-2 General Residential District.

It is the recommendation of the Planning Board to rezone the property as requested.

No one was present regarding this request.

A discussion followed.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted to rezone from C-2 General Business District to R-2 General Residential District the property located on the north-west corner of the intersection of South Garden Street and Spring Street as recommended by the Planning Board.

**ZONING ORDINANCE AMENDMENTS - ARTICLE VIII - ADD BED AND BREAKFAST HOMES AND INNS:**

The City Manager opened the Public Hearing.

The City Manager presented the following request and recommendation to Council from the Planning Board:

Mrs. Nancy Goplerud appeared before the Marion Planning Board to request an amendment to Article VIII. Use Requirements by District to allow Bed and Breakfast Homes and/or Inns as a permitted Use.

Mrs. Goplerud would like to operate a Bed and Breakfast Home in her

residence located at 108 North Madison Street. This property is zoned R-1 Single Family Residential District.

The North Carolina Administrative Code defines a bed and breakfast home as a private home offering accommodations to eight (8) or less persons per night for a period of less than one week. A bed and breakfast inn offers accommodations to not more than twelve (12) guest.

Mrs. Goplerud stated that she would have accommodations for four (4) guest. This number was based on requirements of the North Carolina Health Code as it relates to the required number of bathrooms. She will have one (1) full bathroom for private use and one (1) for guest.

It is the recommendation of the Planning Board to amend the Marion Zoning Ordinance to include the following:

#### ARTICLE VIII. USE REQUIREMENTS BY DISTRICT

Section 801.3 Special Exception. The following uses are permitted as special exceptions as provided for in Article XII. Planning and Zoning Board, Section 1202. Powers and Duties of the Board, 1202.2. Special Exceptions. of this ordinance:

Bed and Breakfast Homes provided that: .

- (A) The business does not serve food or drink to the general public for pay.
- (B) The business serves only the breakfast meal, and that meal is served only to overnight guest.
- (C) The room rates includes the price of the breakfast
- (D) The business is the permanent residence of the owner or manager.
- (E) One (1) off-street parking space be provided for each accommodation (rented bedroom) plus two (2) spaces for the owner/manager.

#### ARTICLE IV. DEFINITIONS OF TERMS USED IN THE ORDINANCE

##### Section 400. Definitions

Bed and Breakfast Home. A private home offering bed and breakfast accommodations to eight (8) or less persons per night for a period of less than one week provided that the business (1) does not serve food or drink to the general public for pay; (2) serves only the breakfast meal, and that the meal is served only to overnight guests of the business; (3) includes the price of breakfast in the room rate; and (4) is the permanent residence of the owner or manager of the business.

#### ARTICLE VII. GENERAL PROVISIONS

##### Section 702. Off-Street Parking Requirements.

###### 702.2 Mixed Uses.

Bed and Breakfast Homes. One (1) space for each accommodation (rented bedroom) plus two (2) spaces for the owner/manager.

##### Section 706. On-Premise Signs and Other Advertising Structures.

- (2) In the residential district, the following regulations shall apply:

F. Bed and Breakfast Homes, identifications signs not exceeding nine (9) square feet.

No Citizen's was present to discuss this request.

A discussion followed.

The City Manager closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request as recommended by the Planning Board but inserting "rented bedroom" in brackets behind "accommodation" for clarification as to intent.

**REQUEST FOR PERMISSION TO OPEN ALLEY WAY - MR. STATON DRAPER:** The City Manager presented Council with a letter from Mr. Stanton Draper requesting that he be allowed to open an alley-way behind his property to provide a parking area for an Apartment he owns located at 118 State Street.

A discussion followed.

Council instructed the City Manager to contact adjacent property owners and to inform them of this request and to bring this request back to the August 5, 1997 City Council Meeting.

**DBA DISCUSSION ON NEW BOUNDARY:** The City Manager presented Council with a copy of the current Service District established in 1989, a copy of the Service District proposed by Councilman Steve Little on March 19, 1996 and a copy of the Service District proposed by the DBA on January 14, 1997.

A discussion followed.

Council instructed the City Manager to redraw the Service District including several sections discussed by Council and to present the map, with changes at the August 5, 1997 City Council Meeting.

**GRAYSON STREET - COMPACTION TESTS - STREETS ACCEPTANCE:** The City Manager presented Council with compaction tests made by Froehling & Robertson, Inc. on a portion of Grayson Street which Mr. Guy Jackson would like the city to maintain.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to accept that portion of Grayson Street two hundred fifty feet in length from the edge of the existing pavement to be added to the city street system for maintenance. It was agreed that the street would be paved in the spring of 1998.

**EASEMENT - DRIVE - MR. FRED WILLIAMS STREET COMMITTEE REPORT:** The City Manager advised that the Street Committee met on Wednesday July 9, 1997 and traveled over to the Williams Residence to inspect the property.

Mr. Williams was at home and met with the Committee.

It is the recommendation of the Street Committee that Council authorize the removal of the rip rap and installation of a storm drain pipe as requested by Mr. Fred Williams.

A discussion followed.

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

**CSX RAILROAD CROSSING AGREEMENT:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to authorize the Mayor and City Manager to execute an Agreement between the City of Marion and CSX TRANSPORTATION, INC. to provide for the installation of a sewer line under the CSX Railroad tracks just north of I-40. Said Agreement can be found filed under legal document #687 in the City of Marion Administrative Office.

**ORDINANCE - ESTABLISHING NEW WATER/SEWER RATES:**

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

**CITY OF MARION, NORTH CAROLINA  
ORDINANCE  
ESTABLISHING NEW WATER/SEWER RATES**

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

Section 1. That new water/sewer rates are hereby established as follows:

WATER RATES  
BASED ON MONTHLY CHARGES

<u>GALLONS USED PER MONTH</u>	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
Service fee	\$7.00 Plus	\$10.00 Plus
0 to 20,000	\$1.30 per 1,000 gallons	\$ 2.60 per 1,000 gallons
Over 20,000	\$ .75 per 1,000 gallons	\$1.50 per 1,000 gallons
Minimum Rate for 2,000 Gallons or less	\$9.00 (includes service fee)	\$14.00 (includes service fee)

(NOTE: Customers using over 2,000 gallons per month shall pay based on the rate schedule per thousand gallons beginning with the first 1,000 gallons of water used.)

SEWER RATES FOR CITY WATER CUSTOMERS  
BASED ON MONTHLY CHARGES

<u>GALLONS PER MONTH</u>	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
Service fee	\$6.00 Plus	\$6.00 Plus
0 to 100,000	\$1.40 per 1,000 gallons	\$2.80 per 1,000 gallons
Over 100,000	\$1.10 per 1,000 gallons	\$2.20 per 1,000 gallons
Minimum Rate for 2,000 Gallons or less	\$8.00 (includes service fee)	\$10.00 (includes service fee)

(NOTE: Customers discharging 2,000 gallons or more shall pay based on the rate schedule per thousand gallons beginning with the first 1,000 gallons of water discharged.)

SEWER RATES  
FOR CUSTOMERS DISCHARGING WASTE WATER FROM  
METERED PRIVATE WELLS

<u>GALLONS PER MONTH</u>	<u>INSIDE CITY</u>	<u>OUTSIDE CITY</u>
Service fee	\$6.00 Plus	\$6.00 Plus
0 to 100,000	\$2.10 per 1,000 gallons	\$4.20 per 1,000 gallons
Over 100,000	\$1.65 per 1,000 gallons	\$3.30 per 1,000 gallons

All sewer charges are based on water meter readings, unless determined other wise by the City Council. The City does NOT use readings from sewer metering devices for billing purposes.

(NOTE: A single family residence using a private well, with no water meter, shall pay a flat rate of \$12.00 per month for sewer service.)

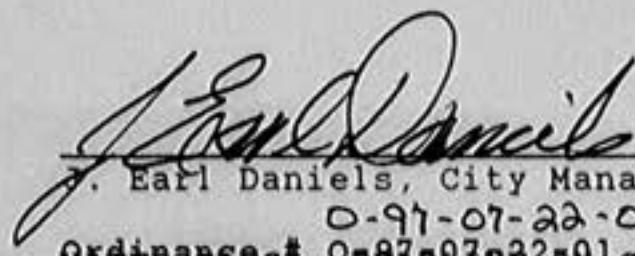
Section 2. These rates shall be effective so as to be reelected in the water/sewer billing due on September 1, 1997.

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Adopted this the 22nd day of July, 1997.

ATTEST:

  
A. Everette Clark, Mayor



J. Earl Daniels, City Manager/Clerk

0-97-07-22-01 *out*

WATER TAPS - DEADLINE CONNECTION AT REDUCED RATES: The City Manager advised that the City needs to establish a deadline for providing water taps to several customers on N.C. 226, as approved by Council, at the reduced rate of \$200.00 for a 3/4 inch service.

A discussion followed.

Upon a motion by Council Little, seconded by Councilman Owenby, Council voted unanimously to set December 31, 1997 as the deadline for persons to take advantage of these reduced rates. After this date all applicants will pay the current tap fee as established by City Council.

POLICE DEPT. REQUEST PERMISSION TO SEND CARDS: The City Manager presented Council with a request from Chief Pruett for permission to send post cards to owners of vehicles seen in known illegal drug activity areas in the City by Officers and Key Residents who know there is not a legitimate reason for said vehicles being there.

The Card would read as follows:

\_\_\_\_\_, it was reported to the Police Department that your vehicle, a \_\_\_\_\_ bearing NC registration \_\_\_\_\_ was recently observed in an area of Marion known for illegal drug activity. We feel that you should be made aware that this area is being watched by law enforcement and also that your vehicle is subject to seizure and forfeiture if illegal drugs are found to be in the vehicle.

The Marion Police Department &  
Concerned Residents

A discussion followed.

Upon a motion by Council Little, seconded by Councilman Martin, Council agreed to allow this procedure on a six month trial basis.

POLICE DEPT. - REQUEST NO PARKING ON SECTIONS OF OAK STREET: The City Manager presented Council with a memo from Chief Pruett requesting the Street Committee to look into prohibiting parking on portions of Oak Street. Oak Street has a double yellow center line which was put there by the state three or four years ago.

This matter was referred to the Street Committee.

The Street Committee will meet on Wednesday July 23, 1997 at 3:30 P.M. at City Hall.

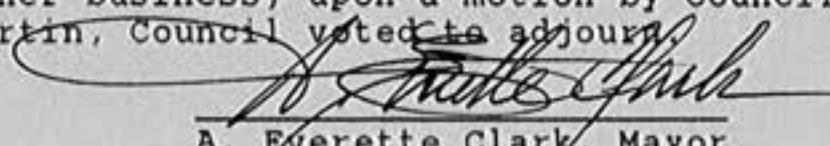
REQUEST - NATIONAL FIRE ACADEMY - MEMBERS OF MARION FIRE DEPARTMENT TO ATTEND: The City Manager presented Council with a memo from Fire Chief Tom Milligan requesting permission for several volunteer Firemen to attend the National Fire Academy in Emitsburg, Maryland. The cost will be sixty dollars per man plus one nights lodging.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council approved this request.

MCDOWELL COUNTY HERITAGE RESOURCE COMMITTEE: Councilman Little advised that he was resigning his position as a Committee Member of the McDowell County Heritage Resource Committee due to this Board meeting on the same nights as the Marion City Council meetings.

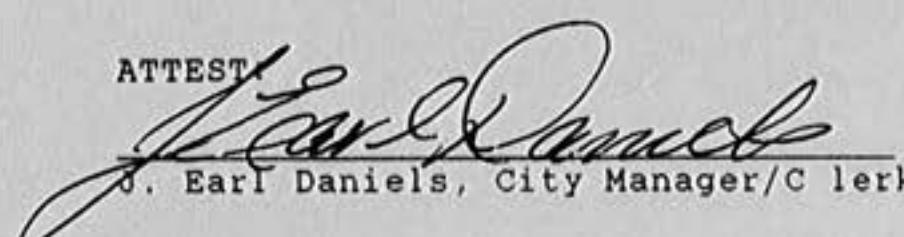
Upon his resignation, Councilman Little made a motion that Mr. Craig Orange be appointed to this position with said term ending on April 30, 1998. This motion was seconded by Councilman Cuthbertson and the vote unanimous.

ADJOURNMENT: There being no further business, upon a motion by Councilman Little, seconded by Councilman Martin, Council voted to adjourn.



A. Everette Clark, Mayor

ATTEST



J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, August 5, 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, Police Chief; Freddie Killough, DBA; Jennifer Watson, News Reporter, The McDowell News; Don Dillingham, News Reporter, The Independent News; Van McKinney, News Reporter, WBRM.

GUESTS PRESENT: Stan Draper 4 Mtn. Brook Drive, Marion, N.C. 28752; Garland Franklin 234 Spring Street, Marion, N.C. 28752; Sherry Floyd 348 Morgan Street, Marion, N.C. 28752; Gary Arnold 615 Oak Street Marion, N.C. 28752; Bob Gourley 115 Broad Street Marion N.C. 28752; Chet Effler, Marion Police Department.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the minutes of the July 22, 1997 City Council Meeting.

LETTER OF SUPPORT - CRACKER BARREL: The City Manager presented Council with a letter from Mayor Clark on behalf of Council and the Citizens of Marion requesting a Cracker Barrel Restaurant be located in Marion.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to send the letter to Mr. Mike Adkins, Senior VP of Operations of the Cracker Barrel Old County Store, Inc.

COPS PROGRAM - REQUEST - MARION POLICE DEPARTMENT: The City Manager advised that on February 4, 1997 Council approved a request for a grant application for funds to provide a full-time school resource Officer to provide services at East Junior High School. This program would have been implemented by the Police Department at no cost to the City of Marion. This grant money if it had been approved would have paid for one Officer's salary, benefits, equipment and uniforms.

The City Manager advised that this proposed grant application would be made with the cooperation of the McDowell County School System. The School System strongly desires the placement of a community police officer on the campus of the East McDowell Junior High School and have agreed to pay all local costs. The school system has agreed to provide all the match portion required in the grant application and there would be no expense to the City.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve this request at no cost to the City of Marion.

REQUEST FOR PERMISSION TO OPEN ALLEY WAY - MR. STATON DRAPER: The City Manager informed Council that notices advising of this meeting to discuss a request to open the ally way adjacent to property owned by Mr. Staton Draper was sent to all adjacent property owners.

Ms. Sherry Floyd was present for the meeting and advised that she did not want the alley opened from South Garden Street to Madison Street.

Mr. Draper advised that his intentions was to open the alley way from Madison Street up to his property and not through to South Garden Street.

Mr. Draper advised that he needed additional access to his property because he had two family units and each needed to be able to park their vehicles off the public street without being blocked in by the other.

Mayor Clark read a request from Ms. Edith Vance who could not be present for this meeting stating that she did not want the alley open behind her house at 116 State Street, connecting South Madison and South Garden Street.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to allow Mr. Draper to open a portion of this alley at his expense, provided he has the alley way surveyed for exact location.

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

CITY OF MARION  
NORTH CAROLINA

ORDINANCE  
AMENDING SECTION 18  
MARION CITY CODE  
TRAFFIC SCHEDULE  
SPRING STREET

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

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

STREET NAME	SEC. 1982 CODE APP.	REG. TYPE	REG. LIMIT	REG. APPLICATION	
SPRING SOUTH MAIN STREET TO OF	18-127	110	ONE-WAY	ONE-WAY	FROM THE INTERSECTION OF SPRING STREET AND THE INTERSECTION SPRING STREET AND SOUTH GARDEN STREET.

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

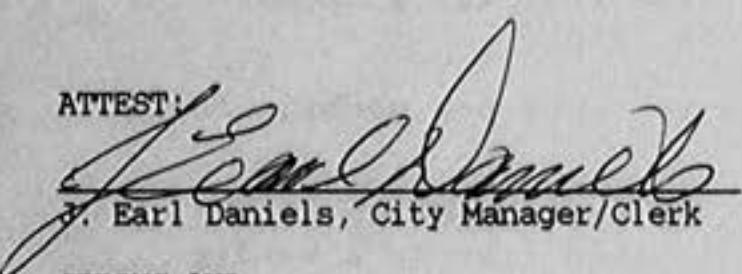
Section 3. The violation of any provision of this ordinance shall constitute a misdemeanor punishable in accordance with the provisions of section 1-10 of the Marion City Code.

Section 4. This ordinance shall be in full force and effect at 12:01 A.M., Monday, August 11, 1997.

Adopted this the 5th day of August, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

SPRING.1WA

Ordinance Number: O-97-08-05-1

CATAWBA STREET IMPROVEMENTS - COMPLAINT: The City Manager presented Council with a memo from Public Works Director, Glen Sherlin, advising that the widening of Catawba Street is the next project scheduled for the Street Department Construction Crew.

In preparations to begin this project, Street Superintendent, Mr. Aaron Adams talked to each property owner on the West Side of Catawba Street where construction is planned and advised them of the proposed project. Mr. Adams had a discussion with Ms. Ruth Young in reference to the need of removing a large tree at 112 Catawba Street. The tree will need to be removed in order to widen the street. It appears that the tree is on the street right-of-way; however, it could not be confirmed without a professional survey.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to permit the survey and to pay for it out of Powell Bill money.

OAK STREET - REQUEST FOR NO PARKING ZONE - STREET COMMITTEE REPORT: The City Manager advised that the Street Committee does not recommend a No Parking Zone at the location requested on Oak Street.

**DBA DISCUSSION ON PROPOSED NEW BOUNDARY:** The City Manager presented Council with the proposed new Boundary for the Municipal Tax District as directed by Council at the July 22, 1997 City Council Meeting.

A discussion followed.

A motion was made by Councilman Little, seconded by Councilman Cuthbertson to send notifications and to schedule a Public Hearing as soon as possible.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to amend the above Motion to include the McDowell Upholstery Shop in the Boundary approved by Council.

**CORPENING CREEK WWTP IMPROVEMENTS - BIDS:** Bids were received for the Corpening Creek WWTP Improvements at 2:00 P.M. on July 31, 1997 in the Conference Room at City Hall.

The City Manager presented the following Bid Tabulations for Improvements to the Corpening Creek Waste Water Treatment Plant for Council consideration:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alt 1</u>	<u>Alt 2</u>	<u>Alt 3</u>
Brown Utility	\$297,000	-\$16,000	+\$ 1,000	+\$ 9,000
Cajun Contractors	487,000	- 5,000	+\$ 3,000	+\$ 11,500
Goodwater, Inc.	331,800	- 10,000	+\$ 2,200	+\$ 9,000
J. S. Haren Const.	427,000	- 13,000	+\$ 3,000	+\$ 10,000
R. T. Construction	444,500	- 13,000	+\$ 3,000	+\$ 11,000
Ramey, Inc.	612,291	- 20,000	+\$ 2,400	+\$ 10,000
W. Rogers Company	531,150	- 6,825	+\$ 3,240	+\$ 12,960

The City Manager advised that the project provides new inflow pumps and a new concrete basin for waste water coming into the plant.

Upon a motion by Councilman Martin, seconded by Councilman Little, Council voted unanimously to accept the low Bid submitted by Brown Utility Company, including alternates 1, 2, and 3.

**GARBAGE/LEAF BAGS - DISCUSSION ON CHARGES:** The City Manager advised that the Purchasing Agent was now buying a different type of garbage and leaf bag, both of which are more durable. The cost of these bags have increased.

The City has been selling twenty garbage bags and fourteen leaf bags to a bundle at a cost of one dollar per bundle. At one time this was a break even service to Citizens at no cost or profit to the City.

The bags have increased in cost. They now cost twelve cents per garbage bag and twenty-five cents per leaf bag.

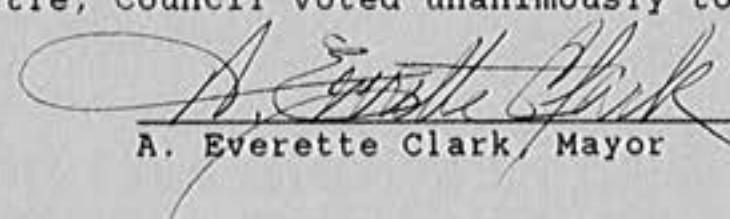
The City Manager recommended that the garbage bags be sold eight to a bundle at a cost of one dollar and that leaf bags be sold four to a bundle at cost of one dollar.

The City Manager recommended that the City continue to give up to a maximum of 20 free leaf bags a year to each residential property upon request. Citizens could pick up the leaf bags during the months of October, November or December.

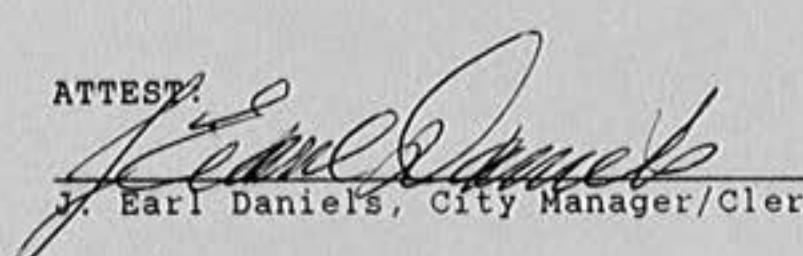
Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to approve this request as recommended by the City Manager.

**PROPOSED CIVIL PENALTIES DISCUSSION ON USE:** The City Manager informed Council that some cities are now using Civil Penalties for violations of municipal ordinances. He advised that this may be desirable for the City, since the City could pursue one or both civil and criminal. He advised that he would prepare the necessary ordinance for Council consideration.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Martin, seconded by Councilman Little, Council voted unanimously to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening August 19, 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, Billy Martin and Cecil Owenby.

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

Councilman Edwards was absent from this meeting due to unavoidable circumstances pertaining to contractors and his new law office.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Freddie Killough, DBA; Ragan Robinson, News Reporter, The McDowell News; Don Dillingham, News Reporter, The Independent News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Bill Smith 107 Dogwood Lane, Marion, N.C. 28752; Wynn Jackson 505 West Henderson Street, Marion, N.C. 28752; Gary Arnold 615 Oak Street Marion, N.C. 28752; Angela Tweed Main Street, Marion, N.C. 28752; Eula Leighton Main Street, Marion, N.C. 28752 Robert Dunn P.O. Box 1289 Marion, N.C. 28752; Matt & Deena F. Smith 9 Lakeview Hills, Nebo, N.C. 28761

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to approve the minutes of the August 5, 1997 City Council Meeting.

MS. ELIZABETH PADGETT - COMPLAINT - CURBS ON FERN AVENUE: The City Manager advised that Ms. Padgett was not present for the meeting. He stated that the bottom line of Ms. Padgett's complaint was that the curb was too high, the traffic too fast and the street too narrow. Ms. Padgett had informed the Manager that fast traffic in the curve would cross over the center line and the street was so narrow with the high curbs in place that there was no place to pull over. It was agreed that the basic problem is speeding traffic and the Police should be directed to check for speeding traffic in the area more often.

PUBLIC HEARING - PROPOSED ZONING ORDINANCE AMENDMENT - REQUEST FROM MR. BILL SMITH: The City Manager opened the Public Hearing.

Mr. Bill Smith is requesting that a light industry be allowed to locate in the C-1 Business District on Main Street.

It is the recommendation of the Marion Planning Board that Mr. Smith's request be approved by amending the Ordinance to allow "Light Industry" as a special exception.

The Public Hearing was closed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted that the Marion Zoning Ordinance, Article VIII, Section 803.4. SPECIAL EXCEPTIONS. be amended by adding the following:

4. Light Industry

This will allow Light Industry, on a case by case basis, to locate in the C-1 Business District, after approval by the Board of Adjustment. Under these procedures, the Board could require that "permitted uses" occupy the street level and allow certain types of "Light Industry" to occupy the rear of the buildings, basements and upstairs sections.

PUBLIC HEARING - PROPOSED ZONING ORDINANCE AMENDMENT - REQUEST FROM MR. GUY JACKSON: The City Manager opened the Public Hearing.

Mr. Wynn Jackson is requesting that property he owns fronting on the west side of Wilhemenia Street and adjacent to and directly behind the lot located on the south-west corner of Wilhemenia Street and Henderson Street (Parcel Number 1701.18-32-7159) be rezoned from R-2 General Residential District to C-2 General Business District.

It is the recommendation of the Planning Board that Mr. Jackson's request be approved.

The Public Hearing was closed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve Mr. Jackson's request and allow this section of property to be rezoned from R-2 General Residential District to C-2 General Business.

PUBLIC HEARING - GRANT TO MEDA: The City Manager opened the Public Hearing.

There were no Citizens present to discuss this Grant.

Mr. Robert Dunn Director of the McDowell Economic Development Association was present for this meeting and advised Council that they were asking the City to provide \$100,000. for the grading of property for Industrial Development.

Spectrum Dyed Yarns will petition the City for annexation of the property they are developing and their initial capital expense on the development is \$15.5 million dollars, and that based on the City's .55 Tax Rate, per one hundred dollars of value, will provide \$85,250., in taxes, the first year following development and that amount or more each year there after of new money.

A discussion followed.

The City Manager Closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Resolution:

RESOLUTION  
CITY OF MARION, NORTH CAROLINA  
APPROVING TERMS OF ECONOMIC DEVELOPMENT INVESTMENT

WHEREAS:

There has been described to the City Council (the "Council") of Marion, North Carolina (the "City"), a proposal for the City to provide certain incentives to Spectrum Dyed Yarns, Inc., a Delaware corporation (the "Company"), in connection with the Company's locating a manufacturing facility in the City (the "Project").

The proposed appropriations and expenditures include expenditures for site preparation on real property owned by McDowell Economic Development Association, Inc. ("MEDA") to make the property suitable for the Company's proposed project. The planned site improvements would include grading and other improvements to prepare the site for industrial and commercial uses. The proposed cost of these improvements is currently estimated at \$300,000. The total amount to be expended by the City for such purposes, however, will not exceed \$100,000.

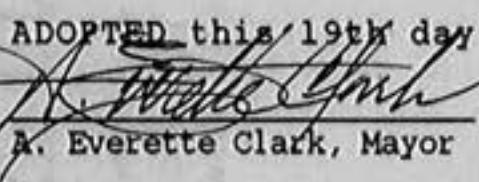
The Council has held a public hearing on the proposed appropriations and expenditures as required by N.C. General Statutes 158-7.1"). The notice of such public hearing (a copy of which is attached as Exhibit A) provides additional information on the proposed Project and the planned appropriations and expenditures.

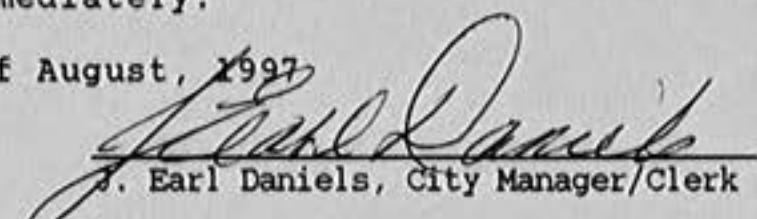
THEREFORE BE IT RESOLVED by the City Council of Marion, North Carolina as follows:

1. The Council hereby approves, in principle, the City's undertaking of certain economic development investments in connection with the Company's locating a manufacturing facility in the City, all as described in the Notice of Public Hearing and as described at this meeting. The City hereby finds and determines that such investment will increase the taxable property and business prospects of the City.
2. The City's officers and officials are hereby authorized and directed to work with Company officials and other appropriate parties to prepare a written agreement documenting the mutual obligations of the City regarding its investments and the Company regarding its manufacturing facility.
3. Such Agreement shall provide, however, (a) for the total amount to be expended by the City to provide the incentives described in the resolution to be not more than \$100,000 and (b) for the value of the consideration to be received in return for the City's investment, as determined in accordance with Section -7.1, to be not less than the value of the investment.

4. All other actions of City officers and officials in conformity with, and in furtherance of, the purposes and intent of this resolution are hereby ratified, approved and confirmed. All other Council proceedings, or parts thereof, in conflict with this resolution are, to the extent of such conflict, hereby repealed. This resolution shall take effect immediately.

ADOPTED this 19th day of August, 1997

  
A. Everette Clark, Mayor

  
J. Earl Daniels, City Manager/Clerk

R-97-08-19-1

**REQUEST FOR PAYMENT - MS. JULIETTE WILKERSON:** The City Manager presented Council with the following letter:

Dear Sir:

My name is Juliette M. Wilkerson and I am a former resident and property owner in Marion. In August of 1996 a mobile home was allowed to be placed on my property and remained there for eight months. This property was claimed by Melvin Rutherford when in fact it turned out to be mine. The City of Marion later on admitted that the mistake had been theirs.

The property is located at 211 Mitchell Street and was occupied for eight months. My property was dug up and underground cables put in my garden area. Also there is an electric pole in my yard which I do not want there. In order to get all this straightened out I had to make four trips to Marion from Durham. I also lost four days from work and made numerous phone calls to Marion trying to rectify the problem. I am not a vindictive person nor am I trying to make any kind of law suit out of this affair but I do feel I am entitled to the following reimbursements:

8 month or rent of property for the mobile home---	\$800.00
4 days lost from work at \$56.00 a day -----	\$224.00
4 trips to and from Durham at .25 a mile -----	\$380.00
(Each trip is 380 miles totaling 1,520 miles)	
Total -----	\$1,404.00

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to table this request indefinitely.

**AREA MEETING IN CLINCHFIELD - RENTAL FEES:** The City Manager presented Council with a memo from Debi Laughridge advising that the Clinchfield Methodist Church charges \$25.00 for the use of their Fellowship Hall. October 7, 1997 was the first date available to hold a City Council Meeting in the Clinchfield area.

The City Manager questioned weather or not Council would want to pay a fee to meet in Communities. The City had not been charged to use other facilities for such meetings.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Owenby, those members of Council present voted unanimously to pay the \$25.00 rental fee and to contribute \$25.00 to each of the other two facilities used in the past to hold City Council Meetings.

**POLICE DEPARTMENT - BASKETBALL TOURNAMENT FOR FAMILY SERVICES OF McDOWELL COUNTY:** The City Manger presented Council with a flyer advertising the Marion Police Departments 2nd Annual 3 on 3 Basketball Tournament for Family Services of McDowell County on October 18, 1997 at the McDowell Recreation Department. The flyer went on to say contact Marion P.D. for details and registration at (704)652-3231.

A discussion followed.

Councilman Owenby stated that he would vote in favor of the Tournament but that he was opposed to tying up the Police telephone lines for details and registration information. He advised that the lines should be open for official police business.

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

Mayor Pro Tem Little	Yes
Councilman Cuthbertson	Yes
Councilman Martin	Yes
Councilman Owenby	Yes, but is opposed to using the Marion Police Department's phone number for this type of service.

DBA - DISCUSSION: Mayor Clark asked that Council consider keeping the DBA special district in tact as it is but to fund it using funds from the ABC profits in lieu of having a special district tax.

A discussion followed.

It was decided to place this item on the Agenda of the next Regular City Council Meeting.

DEPOT DISCUSSION: The City Manager advised that a letter needs to be sent to Norfolk Southern Railroad requesting that the Norfolk Southern Railroad Depot located in Marion, be donated to the City of Marion, including the adjacent parcel of property to be used for parking.

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to authorize Mayor Clark to send a letter to Norfolk Southern Railroad requesting that the depot be donated to the City of Marion.

COUNCILMAN COMMENTS:

Councilman Cuthbertson asked if there was a Ordinance against hedges blocking the view of motorists backing out of driveways.

The City Manager advised there was an Ordinance limiting the height of hedges and other structures.

Councilman Owenby advised that he had spoken with Mr. Condrey and Mr. Deaton, who had approached Council previously at a City Council Meeting regarding the Street condition on Fifth Street in Clinchfield. They advised that the City had not been there yet or done anything to correct the problems.

The City Manager advised that City officials had been there, but that no work has been accomplished due to prior commitments.

Councilman Owenby suggested that maybe a notice should be left at residences stating that City Crews had been there as a courtesy to City Residents.

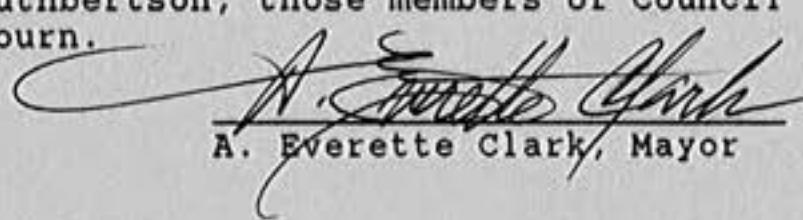
Councilman Owenby also advised that a letter should be sent to Senior Citizens explaining the exemption they are due when they reach retirement age on City Taxes and the one percent discount they get for paying their taxes early.

The City Manager advised that exemptions due Senior Citizens is through the County Tax Office and must be applied for at the time of listing. The City taxes are based on the Counties figures.

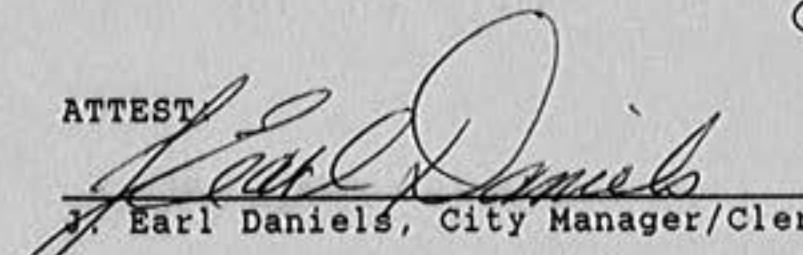
Councilman Martin advised that he had been contacted concerning an oil leak under a vehicle parked on Spring Street.

The City Manager advised that there was an Ordinance covering this type of violation and instructed the Police Chief to investigate the matter.

ADJOURNMENT: There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 2, 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.

OTHER PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruitt, Police Chief; Freddie Killough, DBA; Don Dillingham, News Reporter, The Independent News; Ragan Robinson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Garland Franklin, 234 Spring Street, Marion N.C. 28752; Dot Baldwin 108 Glenview Street Marion, N.C. 28752; Marcella Anderson, 751 Fairview Church Road, Spruce Pine, N.C. 28777; Susan Smith McDowell TDA; Gary Arnold Oak 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 August 19, 1997 City Council Meeting.

PROCLAMATION - CONSTITUTION WEEK: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Proclamation:

CITY OF MARION  
PROCLAMATION  
CONSTITUTION WEEK

SEPTEMBER 17-23, 1997

WHEREAS, Our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

WHEREAS, It is the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to effectively support, preserve and defend it against all enemies; and

WHEREAS, The two hundred tenth anniversary of the Signing of the Constitution provides an historic opportunity for all Americans to remember the achievements of the Framers of the Constitution and the rights, privileges, and responsibilities they afforded us in this unique document; and

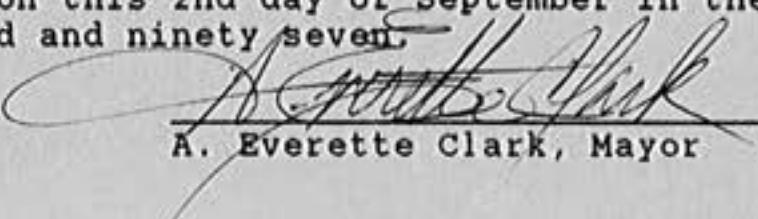
WHEREAS, The independence guaranteed to American Citizens, whether by birth or naturalization, should be celebrated by appropriate ceremonies and activities during Constitution Week, September 17 through 23, as designated by proclamation of the President of the United States of America in accordance with Public Law 915, now

THEREFORE, I A. Everette Clark, by virtue of the authority vested in me as Mayor of the City of Marion do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

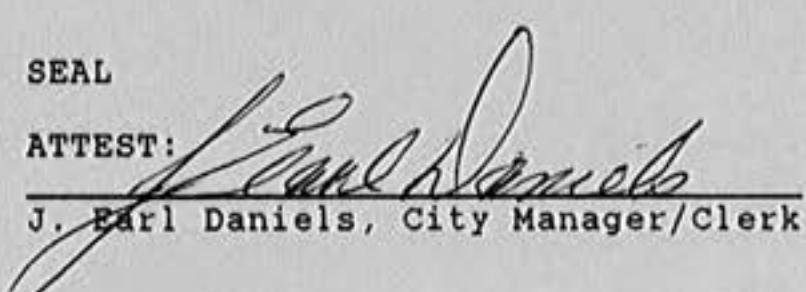
in the City of Marion, and urge all citizens to reflect during that week on the many benefits of our Federal Constitution and the privileges and responsibilities of American citizenship.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Marion to be affixed at Marion this 2nd day of September in the year of our Lord one thousand nine hundred and ninety seven.

  
A. Everette Clark, Mayor

SEAL

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

PROCLAMATION - LITTER SWEEP: The City Manager presented Council with a letter from Helen Landi, Director of Office of Beautification Programs with the Department of Transportation.

Ms. Landi advised that the annual fall roadside cleanup is scheduled for the two-week period September 8 through September 22, 1997 and that Governor Hunt has proclaimed this time as "LITTER SWEEP" in North Carolina.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously for the City to fully support the Litter Sweep proclaimed by Governor Hunt with assistance to the Department of Transportation to make this clean-up a huge success.

TAX RELEASE AND REFUND - BOYD & DEBORAH POTEAT: The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector advising that an error in the valuation of property owned by Boyd D. & Deborah Poteat from 1992 through 1995. This property is located at 113 Virginia Road, PIN 170220906661.

This property had two structures on it. One of structures was unlivable. The County refunded 1992, 1993 and 1994 on a value of \$4,750.0, the refund for 1995 was on a value of \$5,300.00. The change in values was due to the revaluation in 1995.

The records on City taxes showed all taxes were paid except 1992.

Ms. Hill therefore requests a release in the amount of \$28.03 (\$4,750 @ 0.59 per \$100) for 1992 and a refund for 1993 and 1994 in the amount of \$56.06, and \$29.15 for 1995.

Mr. & Mrs. Poteat are requesting the total refund of \$85.21 to be applied to their 1992 taxes and would then pay the remaining balance due.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve this request in the amount of \$85.21.

McDOWELL COUNTY - PROMOTIONAL VIDEO - REQUEST FOR FUNDS: Ms. Susan Smith, Executive Director of McDowell County Tourism Development Authority appeared before Council requesting an amount up to \$1,000.00 as a contribution from the City to cover a portion of the cost to develop a promotional video. This video would be for both tourism and economic development, which will be focused on the lifestyle and allure of McDowell County. The production is being designed as a high quality, generic "lifestyles" piece which could be used by any number of agencies within the area for general information, marketing, promotions and recruitment.

Listed below is an outline of the budget for the project, as well as a breakdown of the funding that the TDA has projected.

#### McDowell County Promotional Film

Film:	Generic Lifestyles Promotional Film
Duration:	Estimated 10 minutes
Estimated Cost:	\$15,000.00
Producer:	Significance Communications 704-628-4600
Film Dates:	September 19 - October 15
Estimated Project Completion Date:	December 15, 1998
Cost Includes:	Script Development Location Production Time Voice Over Development Sound Track Development Post-Production Editing Production of Broadcast Quality VHS Master Reproduction of up to 8 1st Generation VHS Tapes Reproduction of up to 8 Continuous-Loop Format Tapes

#### Local Funding Partners:

McDowell Tourism Development Authority (\$1,000.00)  
McDowell Economic Development Authority (\$1,000.00)  
McDowell County (\$1000.00)

City of Marion (\$1,000.00)  
Town of Old Fort (\$500.00)

Corporate  
Sponsorship  
Grants requested: Public Service Company of  
North Carolina (\$3,500.00)  
Nations Bank (\$3,500.00)  
Cresent Resources (\$3,500.00)

A discussion followed.

Councilman Edwards suggested that this donation come out of the DBA Budget.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted to approve this request up to \$1,000.00.

The vote was as follows:

Mayor Pro Tem	Yes
Councilman Cuthbertson	Yes
Councilman Martin	Yes
Councilman Owenby	Yes

Councilman Edwards	No
--------------------	----

**WOMEN'S SAFETY TRAINING - MARION POLICE DEPARTMENT:** The City Manager presented Council with a memo from Police Chief Tom Pruett, requesting permission to offer another Women's Safety Class.

If approved, the class would be held Thursday evening September 25, 1997, from 6:00 P.M. to 9:00 P.M.

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

**REQUEST TO USE HABITAT FUND BALANCE FOR PAVING ROAD:** The City Manager advised that the City was awarded a Housing Development Grant in 1994 to extend water and wastewater service to three habitat houses that were being constructed. The total cost for extending the lines, including engineering fees, was \$31,050, which left the City with a balance of \$18,435.

Mr. John McGraft, President of Habitat, has requested authorization for use of the funds to the street behind these homes. The State was contacted concerning this matter and advised that the project could be amended to allow the fund balance to be used for the paving.

Once the street is completed it would become a City Street.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to allow these funds to be used as requested.

**CDBG - SCATTERED HOUSING CONTRACT FOR TITLE WORK:** The City Manager advised that Isothermal Planning and Development Commission was required to seek competitive bids from attorneys for title searches on each of the homes.

One estimate was received from Attorney Krinn E. Evans at an estimated cost of \$200.00 per unit.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously for IPDC to appoint Attorney Evans to do these title searches.

**CDBG - SCATTERED HOUSING PROJECT - AUTHORIZE MAYOR & CLERK TO SIGN DOCUMENTS:** The City Manager presented Council with a request from Mr. Travis Ringo, Rehabilitation Specialist with Isothermal Planning and Development Commission, advising that they are required by the Division of Community Assistance to obtain approval from the City for each rehabilitation contract and promissory note signed by the twenty-two (22) applicants who have been selected for the program. These documents are presented to the home owner prior to commencement of the rehab work at a pre-construction conference. Once approved by the home owner, they must be signed by the City to become a binding contract. The CDBG files for each applicant will be set up at the City Hall and all original documents will be stored there with the exception of the "in progress" units. The executed Deeds of Trust will be recorded and placed in each file along with the Promissory Notes.

Upon a Motion by Council Little, seconded by Councilman Martin, Council voted unanimously to authorize the Marion and City Clerk to sign all documents related to the project.

ORDINANCE - OFF STREET PARKING: Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted to adopt the following Ordinance:

CITY OF MARION  
NORTH CAROLINA

ORDINANCE  
OFF-STREET PARKING  
MARION CITY CODE

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

Section 1. That Section 18-256 through Section 18-262 of the Code of Ordinances, City of Marion, North Carolina, is hereby repealed and new Section 18-256 through Section 18-261 is hereby adopted to read as follows:

DIVISION 2. OFF-STREET PARKING

Sec. 18-256. Designated off-street parking lots.

In order to facilitate the parking of motor vehicles in the city, the following areas are hereby designated as off-street parking lots in the city where properly licensed motor vehicles may be parked in designated marked-off spaces subject to the provisions of this section, and any amendments thereto:

- (1) Lot #1, North Main Street-Beginning at a point on the west side of North Main Street, said point located forty (40') feet west of the center of North Main Street and ten (10') feet north from the center of Brown Drive; thence north running parallel with North Main Street one hundred twenty-six (126') feet; thence west running parallel with Brown Drive seventy (70') feet; thence south running parallel with North Main Street one hundred eighteen (118') feet; thence east running parallel with Brown Drive seventy (70') feet to the point of beginning.
- (2) Lot #2, Brown Drive-Beginning at a point on the west side of North Main Street, said point located one hundred ten (110') feet west of the center of North Main Street and ten (10') feet north from the center of Brown Drive; thence north running parallel with North Main Street one hundred eighteen (118') feet; thence west running parallel with Brown Drive seventy 70' feet; thence south running parallel with North Main Street one hundred twenty-nine (129') feet; thence east running parallel with Brown Drive eighty-three (83') to the point of beginning.
- (3) Lot #3, Henderson Street-Beginning at a point on the south side of West Henderson Street, said point located two hundred sixty-seven (267') feet west of the center of South Main Street and thirty-one (31') feet south of West Henderson Street; thence west two hundred eleven (211') feet running parallel with West Henderson Street; thence south one hundred forty-four (144') feet running parallel with South Main Street; thence east two hundred six (206') feet running parallel with West Henderson Street; thence north one hundred twenty-four (124') feet running parallel with South Main Street to the point of beginning.
- (4) Lot #4, South Main Street-Beginning at a point on the east side of South Main Street, said point located thirty (30') feet east of the center of South Main Street and one hundred twenty-seven (127') feet south from the center of State Street; thence east one hundred forty (140') feet running parallel with State Street; thence south fifty-six (56') feet running parallel with South Main Street; thence west one hundred forty (140') feet running parallel with State

Street; thence north fifty-six feet running parallel with South Main Street to the point of beginning.

(5) Lot #5, Railroad Street-Beginning at a point on the south side of Railroad Street, said point located three hundred fifty-seven (357') feet west of the center of South Main Street and eighteen (18') feet south from the center of Railroad Street; thence west one hundred thirty-six (136') running parallel with Railroad Street; thence south one hundred nine (109') feet running parallel with South Main Street; thence east one hundred six (106') feet running parallel with Railroad Street; thence north one hundred sixteen (116') feet running parallel with South Main Street to the point of beginning.

Sec. 18-257. Two-hour parking lots.

The parking lot described in subsection (1) of section 18-256 is hereby designated as a two-hour parking lot. No person shall park any motor vehicle and leave such vehicle parked in the above described two-hour parking lot for a continuous period of time in excess of two (2) hours.

Sec. 18-258. All day parking lots.

The parking lots described in subsections (2) through (5) of section 18-256 are hereby designated as all-day parking lots. No person shall park any motor vehicle and leave such vehicle parked in any of the above described all-day parking lots between the hour of 1:00 a.m. and 7:30 a.m. local time.

Sec. 18-259. Reserved parking spaces.

From time to time one (1) or more parking spaces in the lots described in section 18-256 may be reserved and designated for the use of one (1) particular person by the Marion City Council.

Sec. 18-260. Handicapped parking spaces.

Certain parking spaces may be designated for use by handicapped persons only. No person shall park a motor vehicle, which does not have displayed in the appropriate location on said motor vehicle, a decal, sticker, tag, etc. issued by the state, signifying that one (1) or more persons in the motor vehicle are handicapped, in any parking space designated as handicapped parking.

Sec. 18-261. Charges and fees.

(a) The owner of any motor vehicle parked in any lot designated as a two-hour parking lot, for a continuous period of time in excess of two (2) hours shall pay to the city a parking fee of five dollars (\$5.00). In addition, a fee of five dollars (\$5.00) shall be charged for each hour, or portion thereof, the vehicle is left parked beyond three (3) hours.

(b) The owner of any motor vehicle found parked in any lot described in section 18-256 and designated as an all-day parking lot, between the hours of 1:00 a.m. and 7:30 a.m. shall pay a parking fee of five dollars (\$5.00) and for each separate day an additional parking fee of five dollars (\$5.00) shall be charged. Said vehicle shall not be removed until all charges are paid in full.

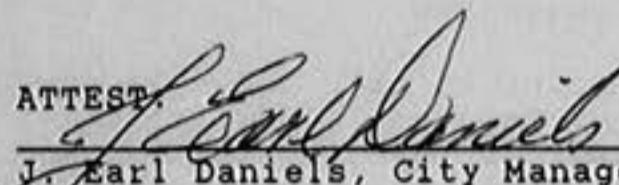
Section 2. This ordinance will be in full force and effect upon adoption.

Adopted this the 2nd day of September, 1997.



A. EVERETTE CLARK, MAYOR

ATTEST:



J. Earl Daniels, City Manager/Clerk

Ordinance # 0-97-09-02-1

ORDINANCE - AMENDMENT - NO PARKING: 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  
MARION CITY CODE  
TRAFFIC SCHEDULE

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

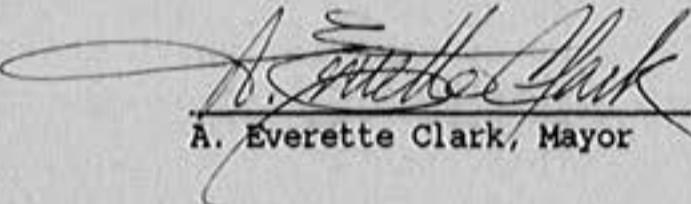
Section 1. That the Traffic Schedule under Section 18 of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

STREET NAME	SEC. CODE APP.	1982 REG. APP.	REG. TYPE	REG. LIMIT	REG. APPLICATION
HILLCREST DRIVE	10-239	101	PARKING	PROHIBITED	SOUTH SIDE OF STREET, AND NORTH SIDE OF STREET, BETWEEN LOGAN STREET AND RESERVOIR ROAD.

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

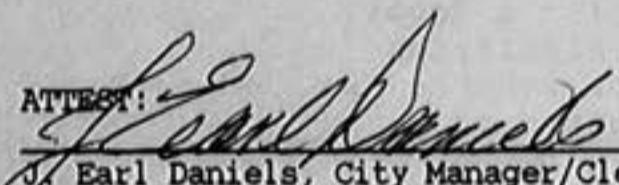
Section 3. The violation of any provision of this ordinance shall constitute a misdemeanor punishable in accordance with the provisions of section 1-10 of the Marion City Code.

Adopted this the 2nd of September, 1997.



A. EVERETTE CLARK, MAYOR

ATTEST:



J. Earl Daniels, City Manager/Clerk

HILLCRST.PRK

Ordinance # 97-09-02-2

MUNICIPAL TAX DISTRICT - DBA: Mayor Clark advised that at the last City Council Meeting he asked Council to consider eliminating the \$.12 Municipal Service District Tax with the City supporting the Special Service District from ABC Revenues.

A discussion followed.

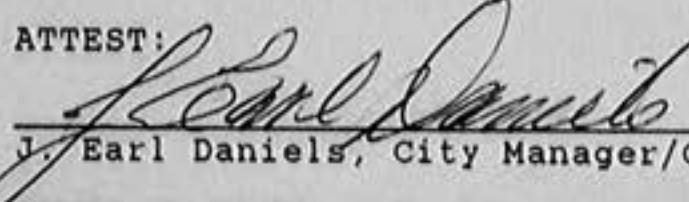
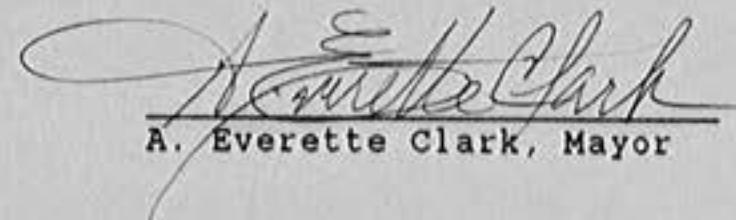
Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted to fund the Municipal Service District for the 1998-1999 fiscal year from Revenues generated from ABC Store profits and to leave the boundaries of the Municipal Service District in place with a zero tax rate.

CLOSED SESSION: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to go into to Closed Session to discuss a legal matter.

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

ADJOURNMENT: There being no further business, upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adjourn.

ATTEST:

  
J. Earl Daniels, City Manager/Clerk  
A. Everette Clark, MayorSTATE 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 16, 1997 at 7:00 P.M. in the City Council Chamber located 200 North Main Street.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News.

GUESTS PRESENT: Gary Arnold Oak Street, Marion, N.C. 28752; Rod Birdsong, McDowell County Chamber of Commerce.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to approve the minutes of the September 2, 1997 City Council Meeting.

REQUEST USE OF PARKING LOT - ROD BIRDSONG - RIDES DURING MOUNTAIN GLORY:  
Mr. Rod Birdsong appeared before Council requesting permission to use the City Parking Lot on West Henderson Street to set up Rides as a fund raiser for the Chamber of Commerce during Mountain Glory. The rides were located on the lot last year.

Mr. Birdsong advised that he would be delivering notices to businesses on West Henderson of this event. Several of businesses had a problem with this function during last years Mountain Glory festivities, due to parking problems. \*SEE REFERENCE NOTE - PAGE 379

AUCTION - ITEMS - DECLARE SURPLUS: The City Manager advised that it is his understanding that McDowell County is going to use Ronnie Burgin Auctioneer Co. this year to hold their annual auction. It has been the Policy of the City Council to use the same auctioneer as the County in the past.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to use Ronnie Burgin Auctioneer Co. to auction off City Surplus Property.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to declare the following property as surplus and place it in the auction:

#### Police Department

- 1- 1990 Chevrolet Caprice (city vehicle #337) solid black in color, 4 door, 350 ci engine, automatic transmission in running condition. Mileage: 112,768.
- 2- Dell 386 computer cpu's, various parts have been stripped from them.
- 1- Dell 486 computer cup, has been stripped of various parts.
- 1- IBM PC case/cpu, stripped.
- 1- one Dell 14" color monitor (doesn't work)

#### Water Department

- 1- 1987 Ford Pickup Truck VIN 1FTBR10A3HUD22679
- 1- Air Jack Hammer Drill

#### Street Department

- 1- 1980 Ford F900 Truck VIN C91MVGG7840
- 1- 1987 Ford Pickup Truck VIN 1FTBR10A1HUD22678

#### Sanitation Department

- 1- 1989 Cushman VIN 1CUMH2220LL009059
- 1- 1989 Cushman VIN 1CUMH2227LL009060

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

RESOLUTION

TO REQUEST MORE EQUITABLE  
GEOGRAPHIC DISTRIBUTION OF  
COMMUNITY DEVELOPMENT BLOCK GRANTS

WHEREAS, the distribution of North Carolina Community Development Block Grant Funding is designed to benefit all citizens of the State; and

WHEREAS, the geographic distribution of these funds favors the eastern section of North Carolina when compared to the percentages of the State's population within each region; and

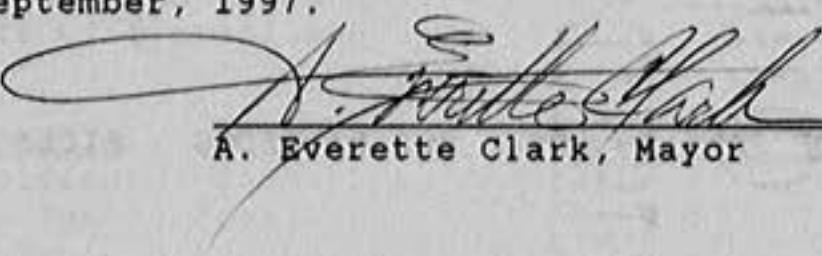
WHEREAS, this inequity occurs each year and is historically consistent; and

WHEREAS, an equitable distribution of funding is in the interest of all North Carolina citizens; and

WHEREAS, an equitable formula that takes into consideration funding based, at least in part, on geographic areas has been advocated and discussed by certain counties for years.

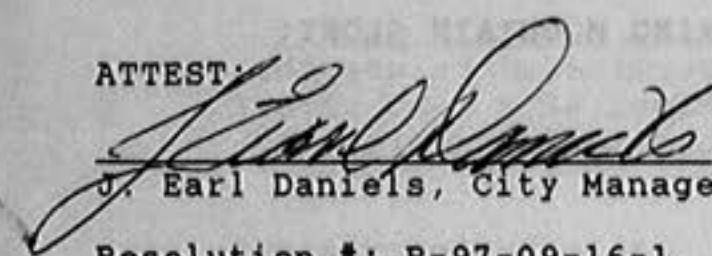
NOW, THEREFORE, BE IT RESOLVED that the City Council for the City of Marion supports the "Proposed CDBG Program Modifications to Promote a MORE EQUITABLE GEOGRAPHIC DISTRIBUTION OF COMMUNITY DEVELOPMENT BLOCK GRANTS".

ADOPTED this the 16th day of September, 1997.



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

Resolution #: R-97-09-16-1

ORDINANCE - "NO PARKING" - SPRING STREET: The City Manager presented Council with an Ordinance regarding No Parking on Spring Street.

A brief discussion followed.

Council agreed to refer this item to the Street Committee.

ORDINANCE - "STOP SIGNS" - SPRING STREET: 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  
MARION CITY CODE  
TRAFFIC SCHEDULE

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

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

STREET NAME	SEC. 1982 CODE APP.	REG. TYPE	REG. LIMIT	REG. APPLICATION
SPRING ST. 18-142	109	STOP	STOP	SOUTH GARDEN STREET, EASTERLY DIRECTION

Section 2. That the Traffic Schedule under Section 18 of the Code of Ordinances, City of Marion, North Carolina, is amended by deleting the following:

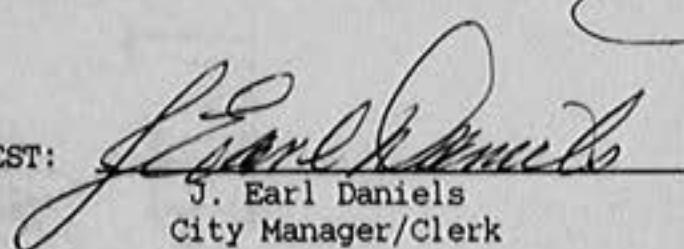
STREET NAME	SEC. 1982 CODE APP.	REG. TYPE	REG. LIMIT	REG. APPLICATION
SPRING ST. 18-142	109	STOP	STOP	SOUTH MAIN STREET, WESTERLY DIRECTION

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

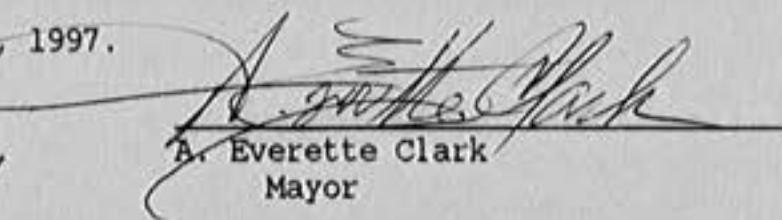
Section 4. The violation of any provision of this ordinance shall constitute a misdemeanor punishable in accordance with the provisions of section 1-10 of the Marion City Code.

Adopted this the 16th day of September, 1997.

ATTEST:



J. Earl Daniels  
City Manager/Clerk



A. Everette Clark  
Mayor

Ordinance # - O-97-09-16-1

**NCLM ANNUAL CONFERENCE - VOTING DELEGATE:** The City Manager advised that the North Carolina League of Municipalities will be holding its 1997 Annual Conference October 19-21, 1997.

Council will need to appoint one voting Delegate and one alternate voting Delegate.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby., Council voted unanimously to appoint Mayor Clark as Voting Delegate, and the City Manager as Alternate Voting Delegate

**DOT-TIP-STREET PROJECTS:** The City Manager advised that the 1997 Transportation Improvement Program Update Meeting for Division Thirteen will be held at 2:00 P.M., October 16, 1997 in the Simpson Auditorium at the Asheville-Buncombe Technical Community College, 340 Victoria Road, located in Asheville.

The City Manager advised that this would be a good time to request funding for any desired projects.

A discussion followed.

The City Manager is to contact Mr. Travis Marshall and request that he attend this meeting.

**DARE TRAINING-OFFICER DON COLLINS-MARION POLICE DEPARTMENT:**

The City Manager presented Council with a memo from Chief Tom Pruett requesting permission to send Officer Don Collins to Junior High School DARE Officer Training. The training will be September 16-19, 1997, in Raleigh. The State pays for all expenses except for transportation to and from Raleigh.

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

**PARKS AND RECREATION-POSSIBLE FUNDING:** The City Manager advised that the City may be able to obtain some funding for Parks and Recreation. The Funding will be available in June or July 1998.

In the past the City has discussed the need to try and establish a recreation and/or park area in West Marion. There is also a need for similar facilities in Clinchfield and East Marion.

The City Manager suggested that Council start with West Marion, if these funds become available.

A discussion followed.

The City Manager was instructed to proceed with applying for this funding and to start with the West Marion Area.

**UTILITY/STREET DEPARTMENTS-WORK LISTS:** The City Manager presented Council with a memo and a list of pending jobs from Public Works Director Glen Sherlin. The list does not reflect priority, however, each one is coded as to the attention they need. the Code is as follows:

- 1 Immediate attention is necessary
- 2 Requires attention as soon as possible
- 3 Attention is needed as schedules permit

The list below does not reflect a number of small maintenance schedules on other matters.

**Code**

2 \* Need to loop in water line at Academy Street and Fort

- 1 \* Need to loop in water line at Hillside Drive and Creasant back to North Garden. Customers complain of rusty water.
- 2 \* Need to loop in line at Lamar Street down Virginia Road to Hill Street where line ends now.
- 2 \* Need to loop in water line on Ann Street to Carol Street back to State Street.
- 3 \* Need to loop in 6" water line on East Railroad to Baldwin Avenue. Valve already on Baldwin.
- 3 \* Need to loop in 6" line at State Street Extension to Baldwin Avenue. Valve already on Baldwin.
- 3 \* Need to loop in 6" line on Highland Drive to East Court Street at KC Bryd Electrical.
- 2 \* Lucky Street needs to be connected to 10" line on Old Hwy. #10. Fire Hydrant needs to be installed on the end of Lucky Street. This 4" line is currently fed only with a 1" line.
- 2 \* Need to relocate fire hydrant on Rutherford Road above Old KFC building. Water line was abandoned.
- 1 \* Need to replace fire hydrant on Beaman Road.
- 1 \* Need to replace water line on Lincoln Avenue. (This line is in very bad condition.)
- 1 \* Need to replace water line on Clay and Oak Streets. (This line is also in bad condition.)
- 2 \* Need to replace 2" line with a 6" line at railroad tracks on Georgia Avenue to Rutherford Road. This will complete loop in at Morehead Road.
- 1 \* Need to replace sewer line on Columbia Avenue. There are about 8 or 9 houses on a 4" orangeburg pipe.
- 2 \* Need to install sewer line on Washington Street to Miller Avenue.
- 2 \* Morgan Terrace is in bad need of a new water line and need to increase sewer line size.
- 2 \* Water line on Roby Conley Road needs to be connected to 10" line with new valve at old slaughter pen.
- 2 \* Houses on Old Greenlee Road, at the bottom of the bypass, need to be changed over onto the 12" pump line and 6" line needs to be abandoned.
- 1 Extend 6" water line from 70 East to Church Street
- 1 Extend 6" water line on School Street and install fire hydrants
- 1 \* Need to replace 2" galvanized line with 6" line on Poplar Street, Pleasant Gardens.
- 2 \* Need to connect houses on Baldwin Avenue to 12" line and abandon 3" line from old Health Dept. behind ballfield and up to Pinegrove Street. There are about 14 houses on Pinegrove, a new line will need to be installed on Pinegrove Street in order to move water meters in front of houses. The 3" line behind Glens Cafe and the Church Daycare has been filled in with dirt. If a leak develops, it will be very difficult to repair because of its depth.
- 1 \* Three houses on Copeland Drive need to be changed over to new line on Morehead Road. Abandon old line behind old school house.
- 2 \* Water line with private hydrant going to Ms. Nichol's residence on Airport Road needs to be abandoned and install her a new service connection.

- 2 \* Need to install new service lines at Mr. Cross' residence and old Bradley house and abandon approximately 400 ft. of AC water lines and two hydrants. If this line was to break, there is no valve for cutoff on Airport Road.
- 2 \* Ken Presnell's residence - need to install new service line and abandon about 300 ft. of galvanized pipe coming from Ms. Nichols residence.
- 1 \* McDowell Avenue from State Street to Railroad Bridge, needs a larger water line. Volume and pressure is very poor.
- 2 \* Portion of Logan Street has AC pipe that needs to be replaced.
- 1 Replace water line on Lail Street and portion of Holly Hill Drive
- 2 State Street reroute water line from railroad track to Garden Street

**STREETS THAT HAVE A NEW WATER LINE WITH OLD LINE STILL IN SERVICE. HOUSES THAT NEED TO BE CHANGED OVER.**

- \* Yancy Road - 5 or 6 houses on old line.
- \* Dogwood Lane to Lonon Avenue
- \* State Street - From railroad tracks up to Clay Street.
- \* Ann Street -
- \* Clark Street
- \* Bostic Street
- \* Gilkey Street - From Court Street up to Oak Street.
- \* Hudgins Street - From upper Brohmill plant to bypass.
- \* Yancey Road - From Fleming to end of line.
- \* Hillcrest - From Finley Avenue to top of hill.
- \* Matilda Avenue
- \* Virginia Road - From Lamar to Gilkey Street.
- \* Garden Street - From East Court to East Henderson.
- \* Kathy Street
- \* West Marion - Almost every street in West Marion has two lines. Example: The Street Marilyn lives on, Grayson Street, has about 10 houses but she is the only one to be connected to the newer 6" line. The others are on an old 2" galvanized line.

**OTHER PROJECTS**

- 1 \* Finish Landis Loop water line.
- 1 \* Make water taps on Landis Loop when water line is in service.
- 1 \* Make taps on 226 South - Reduced fee per City Council.
  - \* Install line for Terry Smith - 226 and I-40 - Designer Hardwood.
- 1 \* Need to finish rerouting water line on East Court Street,
- \* Need to do maintenance work on both Mackey Creek and Clear Creek intakes.

**FUTURE MAINTENANCE REQUIREMENTS**

- \* Sewer manholes from Rutherford Road to Corpening Creek waste treatment plant are filling up with sand. A major cleaning will be required in the future. (Note: Approximately 5 cubic yards of sand and gravel was removed from sewer line from Vale Street to Tennessee Avenue.)

**STREET JOBS PENDING - SEPTEMBER 12, 1997**

- 1 Catawba Street - Need to widen four (4) feet for two lanes of traffic.
- 3 School Street - Need to build small head wall where tile crosses road to keep it from washing out.
- 3 Bakersville Road - Need to build asphalt curb and spillway.
- 1 Gilkey Street - Needs to have concrete curb and gutter

replaced for the entire length of street on both sides.

- 1 Blue Ridge Street - Need to replace concrete curb and gutter the entire length of street on both sides.
- 1 State Street - Need new curb and gutter on the south side from South Madison Street to the railroad.
- 1 Ellis Street - Needs to replace a section of curb and gutter on the south side approximately 250 feet (pending for two (2) years.
- 1 New Street - Sidewalk needs to be replaced on north side from entrance of City Hall to North Garden Street and the south side needs replaced.
- 2 West Fort and Academy Street - Bad section of sidewalk needs replaced from Academy Street past house #117, approximately 75 to 100 feet.
- 3 West Court Street - Old section of sidewalk needs replaced and has been pending over three (3) years.
- 2 Logan Street - Sidewalk needs replacing from North Main Street to First Union.
- 3 State Street - Sidewalk beginning at Clay Street to the railroad has several small sections that need to be replaced.
- 1 Need to pour bottom in culvert at Manual Wood Workers. Head walls also need installed.
- 3 Community Building - Need to pour sidewalks leading to some of the playground equipment.
- 2 Clinchfield - 6th Street and 7th Street area - All streets need concrete curb and gutter and new drainage to hold water in street with 7th Street as a priority. Some of the streets need to be widened prior to curb work.
- 2 Garden Street at Builders Supply - Need to install two (2) driveway approaches and install a section of curb and gutter.
- 2 State Street - Drain line extension near Capital Hill
- 1 Lincoln Avenue - Curb and gutter replacement
- 2 Washington Street - Extend Street to Miller Avenue
- 2 Park Avenue curb and gutter replacement and storm drain improvement.

A discussion followed.

REPORT FROM PUBLIC WORKS DIRECTOR-TIRE PICK UP: The City Manager advised that in the past City Crews picked up used tires from four businesses. Employees of these businesses loaded the tires. The tires were delivered to the landfill and dumped from the truck. City Employees did not have to handle the tires.

A new policy set in place by McDowell County has changed the procedure making it necessary for City Employees to handle the tires and load them on the County's storage vehicle.

The Public Works Director advised that the City picks up approximately three hundred fifty to four hundred tires per week.

The County has advised that if County employees are available, they will assist City employees in loading these tires at the landfill.

The City Manager advised that this is a "special service" not provided to other businesses and the change in procedures may require the use of different equipment and additional personnel.

It is the recommendation of the City Manager and Public Works Director to discontinue this "special service."

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to discontinue this service effective October 15, 1997.

**REQUEST - McDOWELL COUNTY RESCUE SQUAD:** The City Manager presented Council with a memo from Mr. Donnie Whitson of the McDowell County Rescue Squad advising that the McDowell County Rescue Squad must hold a trench exercise each year.

Mr. Witson is requesting the use of the City's property at the Warehouse.

The Rescue Squad has liability policy with limits of \$500,000 and has a worker's compensation insurance for their members and will hold the City of Marion harmless.

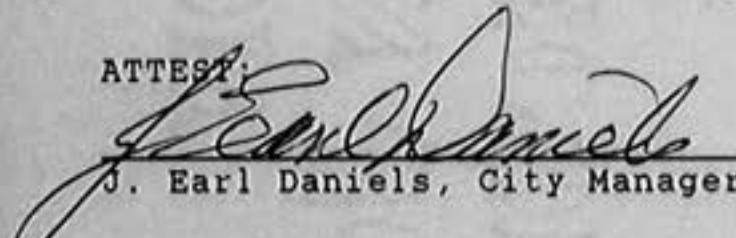
A brief discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to allow the McDowell County Rescue Squad to use City Property.

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

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

**REFERENCE NOTE:** Page 373 Item (REQUEST USE OF PARKING LOT ROD BIRDSONG RIDES DURING MOUNTAIN GLORY:) A portion of this section was inadvertently left out. The motion for this section is as follows:

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to approve the use the City Parking Lot on West Henderson Street to set up rides as a fund raiser for the Chamber of Commerce during Mountain Glory Festival to be held on October 11, 1997.

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 7, 1997 at 7:00 P.M. at the Methodist Church located on Ridge Road in Clinchfield.

**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; Ragan Robinson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Michael Lavender, News Reporter, The Independent.

**GUESTS PRESENT:** Carroll Parker P.O. Box 728 Marion, N.C. 28752; Melvin Carson 537 Ellis Street, Marion, N.C. 28752; Michael Taylor 5 Walnut Lane Asheville, N.C. 28824; Carl Deaton 610 6th Street, Clinchfield; Joyce Duncan 7 East Main Street, Clinchfield; Grace Poteat 12A Main Street, Clinchfield; Mary Rumfelt 6 Main Street, Clinchfield; Faye Davis 401 4th Street Clinchfield; Ruby Hall 502 5th Street Clinchfield; Luna Mae Cuthbertson 352 Branch Street, Clinchfield; Thelma Welbourn 404 4th Street,

Clinchfield; Hettie Cuthbertson 504 5th Street Clinchfield; Ted Buckner 412 4th Street Clinchfield; Marie Gladden 412 4th Street, Clinchfield; Mr. & Mrs. Ralph Turner 52 Tank Street Clinchfield; Izola M. Pace 250 Church Street Clinchfield; Viola Taylor 247 Church Street Clinchfield; Lewellyne Roland 269 Church Street Clinchfield; Anne Smith 249 Church Street Clinchfield; Ned Hensley 104 Oakwood Drive Marion, N.C.; Gary Arnold Oak Street, Marion, N.C.; Matt Davis 41 Ridge Road Clinchfield; Mr. & Mrs. Harold Arrowood 40 Circle Street Clinchfield; Tom Burke 364 Branch Street Clinchfield; Louise Arrowood 66 School Street Clinchfield; Jean Jenkins 371 Hill Street Clinchfield; Glenys Gilbert 218 Virginia Road Marion; Bessie Proctor Marion N.C.; Harold Nelson Highland Drive Marion N.C.; Frances Taylor 251 Church Street Clinchfield; Brett Moore 607 Ridgecrest Ave. Marion N.C.; Mildred Causby 82 School Street Clinchfield; Eugene Holland Marion, N.C.; Randy Parker Marion, N.C.; Michael Davis Tank Street Clinchfield.

APPROVAL OF MINUTES: Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to approve the minutes of the September 16, 1997 City Council Meeting.

COMMENTS & COMPLAINTS - CLINCHFIELD RESIDENTS:

Mr. Ralph Turner:  
Weeds - Clinchfield Mill  
Speeding Problem  
Lose Cats and Dogs  
Leaf Pick-up  
Water Standing on top of Clinchfield Mill

Michael Davis:  
Speeding and Through Traffic

Viola Taylor:  
Ditch on Church Street Keeps Washing Out

Ann Smith:  
Narrow Streets  
Curbs and Sidewalks  
Drainage

Francis Taylor:  
Speeding on Church Street

Faye Davis:  
Water Run Off From 4th Street  
Kudzu Near the Old Clinchfield School

Ruby Hall:  
Water Run Off From 5th Street  
Kudzu

Thelma Welborn:  
No Ditches on 4th Street Makes Water Run Off Dangerous in the Winter Months

Mary Rumfelt:  
Dogs running loose  
Speeding and Stop Sign Violations  
Water at 5, 6, 7 and 12A Main Street Is Not Drinkable

Joyce Duncan:  
Cats and Dogs  
Appearance of Old School House  
Appearance Junk Store on East Court Street

Ted Buckner:  
Water Run Off on 4th Street  
Curbs  
Large Trees

Luna Mae Cuthbertson:  
Old School House  
Kudzu

Gleny's Gilbert:  
Appearance coming into the City from Hwy. 70 East  
Old School House

Grace Poteat:  
Junk Around Homes

Dean Stevens:  
Water Run Off freezing in the Winter

A discussion followed.

Mayor Clark and the Marion City Council assured the Citizen's of Clinchfield that the City will do what they can to meet the needs of the Clinchfield Community.

COUNCILMAN LITTLE asked to be excused from this meeting at 8:30 P.M. due to sickness.

COMMERCIAL TIRE SERVICE: At the September 16, 1997 City Council Meeting, Council agreed to discontinue picking up tires from commercial enterprises within the City.

Representatives from the four Tire Centers, serviced by the City, appeared before Council requesting that the tire pickup service be continued.

The City Manager explained that the County Landfill had changed their regulations and now require that the tires be unloaded and stacked. He advised that this would increase the cost of operation for the city and since this was a "special service" not given other businesses it was recommended that the service be discontinued.

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Cuthbertson, those members of Council present voted to continue service to these businesses until further notice and some final action by the Marion City Council.

COMPLAINT - MS. SANDRA GOSSETT - HIGHLAND DRIVE: Ms. Gossett was not present for this meeting.

Mr. Harold Nelson, neighbor of Ms. Gossett, was present for this meeting requesting Council to do something about drainage water backing up in his basement. He advised Council that Ms. Gossett pouring cement into a natural storm drain on her property which diverted storm water onto Mr. Nelson's property and floods his basement.

A discussion followed.

The City Manager advised that this matter involves private properties and the city should not get involved unless it is declared a public health problem.

REQUEST - PERMISSION TO OPEN ALLEY WAY - LeMELVIN CARSON/MIKE TAYLOR: Mr. Mike Taylor and Mr. LeMelvin Carson appeared before Council requesting that a alley be opened for the purpose of obtaining access to a piece of property Mr. LeMelvin is purchasing from Dorothy Kincaid (Tax ID #4928086). A double wide mobile home will be placed on this property.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted unanimously to authorize Mr. Carson to open and maintain the alley at his own expense, after having it surveyed for exact location.

REQUEST - FOR CITY TO PROVIDE WALKING TRACK - MS. VELMA KRAUSE: The City Manager advised that he had received a petition from Ms. Velma Krause of Route 4, Box 664 Marion, requesting that City Council provide some type of safe, well lighted walking track for the many citizens of our town. Ms. Krause stated that the present track on State Street is not well lighted and that there are many senior citizens who use this track.

A discussion followed.

It was suggested that the petitioners use sidewalks on Main Street which are well lighted and safe.

The City Manager was instructed to contact school officials requesting that better lighting be placed on the walking track at East Junior High School.

REQUEST - McDOWELL COUNTY NATURAL RESOURCES - CANOE TRAIL:

The City Manager presented Council with a letter from Mr. Kelly Pipes advising that the McDowell County Natural Resources Committee instructed their staff to investigate the possibility of establishing a canoe access on City owned property adjacent to the Catawba River. The property in question is occupied by the Catawba River Waste Water Treatment Plant.

A canoe access at the waste water treatment plant would shorten the distance between the access points and would strengthen their case for getting the official canoe trail designation from the State.

A discussion followed.

The City Manager advised that the Catawba River Waste Water Treatment Plant has a gate which is locked to keep persons away from the waste treatment plant and off the property. It's just not a good place for a picnic or for children to be at play. He stated that the Laughridge family has a right of way across the property to get to some farm land which cannot be blocked

by parking of private vehicles. Citizens living on the road have already complained about the traffic on their road.

Upon a motion by Councilman Owenby, seconded by Councilman Edwards, those members of Council present determined that this may not be the most suitable location and voted to deny this request.

**REQUEST - McDOWELL COUNTY SCHOOLS - SEWER SERVICE - EASTFIELD SCHOOL:** The City Manager presented Council with a letter from Mr. David Ricketts of the McDowell County School System requesting that Eastfield School be connected to the City Sewer System.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Edwards, those members of Council present voted to allow this connection provided the School bare all expenses for a pump station and force main. The City would own and maintain the force main and the school would pay for sewer service based on inside city rates. There would be no connection fee charged, however, the electrical costs and maintenance of the pump station would be paid by the school system.

**USE OF EXTERNAL DEFIBRILLATORS - McDOWELL EMERGENCY SERVICES:** The City Manager presented Council with a letter from Mr. Carroll Hemphill, Director of the McDowell County Emergency Services advising that the American Heart Association is working to increase the survival rate of those that experience cardiac arrest. That effort is centering around the availability of Automatic Defibrillators.

The cost ranges from two to three thousand dollars. Mr. Hemphill advised that they would be happy to assist the City in developing a program, selecting a device, training and supporting the City with continued Advanced Life Support services.

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted to table this item for further study.

**POLICE - REQUEST TO USE PRISON LABOR TO CLEAN PRIVATE LOT:**

The City Manager presented Council with a memo from the Chief of Police requesting permission to utilize one of the inmate work crews to clear a lot at the corner of Oak & Wilhelmena in West Marion.

A discussion followed.

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

**POLICE - REQUEST - CITIZEN'S POLICE ACADEMY:** The City Manager presented Council with a memo from the Chief of Police requesting approval to offer another Citizen's Police Academy.

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

**ORDINANCE - NO PARKING - SPRING STREET - STREET COMMITTEE REPORT:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Edwards, those members of Council present voted to adopt the following Ordinance:

CITY OF MARION  
NORTH CAROLINA

ORDINANCE  
AMENDING SECTION 18  
MARION CITY CODE  
TRAFFIC SCHEDULE

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

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

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

Spring St. 10-239 101 PARKING PROHIBITED North side, Northwest corner of Virginia Avenue extending 1100 feet in a westerly direction.

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

Section 3. The violation of any provision of this ordinance shall constitute a misdemeanor punishable in accordance with the provisions of section 1-10 of the Marion City Code.

Adopted this the 7th day of October, 1997.

ATTEST: *J. Earl Daniels*  
J. Earl Daniels  
City Manager/Clerk



A. Everett Clark  
Mayor

SPRING.NOP

Ordinance Number: O-97-10-07-1

LOADING ZONE - WEST COURT STREET OLD HOUSE THEATER: The City Manager presented Council with a memo from the Chief of Police advising that he had been contacted by Mrs. Jane Walker in reference to the House Theater. She advised that the Salvation Army is interested in coming to McDowell County and they are considering occupying the House Theater building. Ms. Walker said one concern they have is they wondered if it would be possible to have a small loading zone in front of the building on East Court Street, further down towards the Garden Path Florist.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to refer this matter to the Street Committee.

DISCUSSION - CHANGING LOADING ZONES TO 15 MINUTE PARKING ZONES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to refer this item to the Street Committee.

DISCUSSION-CHANGING TWO HOUR PARKING LIMITS TO ONE HOUR: The City Manager advised that Councilman Owenby asked that Council discuss changing the on-street two hour parking limits to one hour. It is believed that some employees or business owners are parking on the street, when the spaces should be available for the General Public.

A discussion followed.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to leave the on-street two hour parking as it is.

The voted was as follows:

Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Martin	Yes
Councilman Owenby	No

ORDINANCE - CIVIL CITATIONS: Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted to adopt the following Ordinance:

CITY OF MARION  
NORTH CAROLINA  
ORDINANCE  
AMENDING SECTION ONE  
MARION CITY CODE

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

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

## Sec. 1 - 16. Civil Citations - Penalties for Violations.

(a) Any person determined to be in violation of any of the provisions of the chapters and/or appendices identified in Section 1-21 shall receive a civil citation for a penalty of Fifty Dollars (\$50.00) for such violation, with the exception of violators of parking regulation or ordinances, ~~which shall receive a civil citation for such violation, (with the exception of violators of parking regulations or ordinances)~~ <sup>4-24-98</sup> ~~Delete~~ <sup>4-24-98</sup> which shall receive a civil citation for a penalty in the amount of Five Dollars (\$5.00) for each such violation, unless a different penalty is specified by State Statute or specific notice. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by a Police Officer or other designated code enforcement officer. Notification shall be effective if a Police Officer or other designated code enforcement officer advised the suspected offender of the violation either in person, by certified mail to the violator's last known address, or by any other means provided for in the North Carolina Rules of Civil Procedures; provided notification of violation of parking regulations or ordinances may be by placing a parking ticket on the offending vehicle.

(b) The procedure applicable to the collection of civil penalties for parking violations is set out in new Section 18-243 of the Marion City Code, as set out below.

(c) If the violation remains uncorrected for seven (7) days after notice is given, a code enforcement officer who observed the violation shall issue a citation requiring the violator to pay the above-stated penalty to the City Revenue Department. Any owner, tenant, or occupant of any building or land or part thereof on which a violation is found to exist, directs, creates, or maintains any condition found to be a violation, or acts in concert with any other person who is responsible for such a violation, shall be subject to the penalties and remedies herein provided.

## Sec. 1-17. Uncorrected Violations.

(a) When a code enforcement officer determines that a previous violation for which a citation has been issued has not been corrected within seven (7) days of service of citation, he shall issue another citation requiring payment of an additional civil penalty in the amount of One Hundred Dollars (\$100.00).

(b) After a second citation has been issued, no further civil citation shall be issued to the same person for the same continuing violation at the same location unless and until an additional written notice is delivered to the offender by personal service, certified mail to the offender's last known address, or posting of the notice for thirty (30) days at the location of the violation if other reasonable attempts to serve the notice are unsuccessful. The notice shall set forth the nature of the violation and order that corrective action be taken. ~~(The notice shall set forth the nature of the violation and order that corrective action be taken.)~~ <sup>4-24-98</sup> ~~Delete~~ The notice shall state that failure to correct the violation within the time specified in the notice (which shall not be less than seven (7) days) will result in the assessment of additional civil penalties and other enforcement action. If after the specified time period has expired corrective action has not been completed, a civil penalty shall automatically activate in the amount of One Hundred Dollars (\$100.00) per day and shall continue to accrue at the rate of One Hundred Dollars (\$100.00) per day until the violation is fully corrected. The code enforcement officer shall notify the violator by personal service or certified mail to the violator's last known address, or other

method authorized by the North Carolina Rules of Civil Procedure, of the day the civil penalty began to accrue, and said notice shall state that the penalty will continue to accrue for each day the violation remains uncorrected. Any enforcement action for injunctive relief by the City shall not stay or abate the accruing of the civil penalty, and the penalty shall continue to accrue daily until the violation is finally corrected, either voluntarily or by the City as a result of a court order or otherwise. The City, however, shall be under no obligation to correct any such violation.

Sec. 1-18. Failure To Pay.

If any civil penalty is not paid within ten (10) days after demand for payment by a code enforcement officer, served upon the violator in one of the methods provided for in Section 1-17 above, the City may initiate a civil action in the nature of a debt collection to recover civil penalties which have previously accrued. Such action shall not stop further civil penalties from accruing if the violation has not been corrected.

Sec. 1-19. Civil Citations not Exclusive.

Civil penalties are an additional remedy for code enforcement. In addition thereto, all remedies allowed in the North Carolina General Statutes and this Code may also be pursued by the City at the same time, without waiving the civil penalties authorized in this chapter.

Sec. 1-20 Appeal.

A person notified of a violation may appeal such determination to the Zoning Board of Adjustment. Such appeal must be filed with the City not later than ten (10) days after the receipt of the first notice issued pursuant to Section 1-16. Failure to timely file an appeal shall constitute acceptance of the determination that a violation exists, and waiver of the right to appeal. If an appeal is timely filed, further action by the code enforcement officer shall be suspended until a ruling is issued by the Zoning Board of Adjustment. If the Board finds that a violation exists, enforcement under this chapter shall continue despite any further appeals by the violator. The fact that an appeal pending under this chapter shall not prevent the City from pursuing other enforcement proceeding brought by the City with regard to the same violation that the Zoning Board of Adjustment ruled upon.

Sec. 1-21. Applicable Chapters and Appendices.

The following chapters and appendices of this Code of Ordinances shall be applicable for this chapter:

- Chapter 3. Animals
- Chapter 4. Buildings and Building Regulations
- Chapter 5. Cemeteries
- Chapter 6. Civil Emergencies
- Chapter 7. Fire Prevention and Protection
- Chapter 8. Flood Hazard Management
- Chapter 9. Health and Sanitation
- Chapter 10. Licenses, Permits and Business regulations
- Chapter 11. Offenses
- Chapter 12. Parks and Recreation
- Chapter 13. Planning
- Chapter 14. Police
- Chapter 14.5 Signs
- Chapter 15. Streets, Sidewalks and Other Public Places
- Chapter 16. Subdivisions
- Chapter 17. Taxicabs
- Chapter 18. Traffic
- Chapter 19. Trees
- Chapter 20. Water and Sewerage
- Appendix Zoning

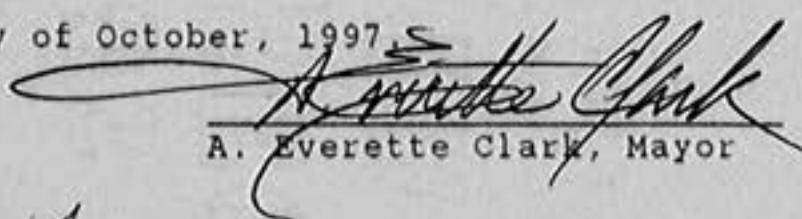
Section 2. A new Section 18-243 of the Marion City Code is hereby adopted as follows:

**Sec. 18-243 Collection of Civil Penalties for Parking Violations.**

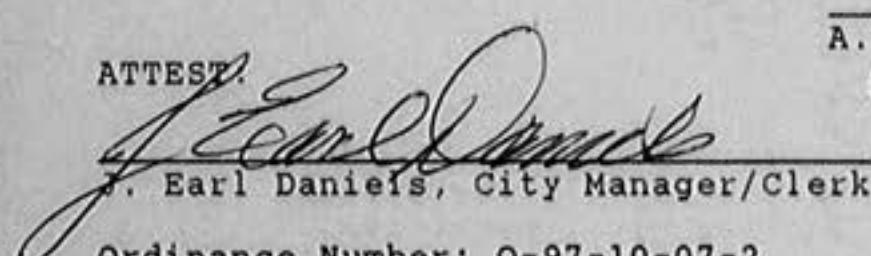
When a civil citation for payment of a penalty for a parking violation remains unpaid for a period of seven (7) days, the owner of the offending vehicle shall become liable for an additional penalty of Twenty-five Dollars (\$25.00). The City shall have the power and authority, in its discretion, to institute and prosecute civil actions for the collection of any and all civil penalties which may become due by reason of violation of parking rules and regulations. Any civil penalties which may be paid or recovered as a result of violations of parking regulations or ordinances shall be the sole and exclusive property of the City.

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

Adopted this the 7th day of October, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Ordinance Number: O-97-10-07-2

**WATER/SEWER TAPS-TIME LIMIT ON USE - LANDIS LOOP ROAD:** The City Manager advised that the City has persons applying and paying for water taps and then not using water from the city system. Residents on Landis Loop Road were advised that they would be required to connect to the water system because of the reduced tap fees and city expenses in extending the water lines and would be charged the minimum rate if they did not use water from the system.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to charge Landis Loop residents not connecting to and using city water, the minimum rate for outside water users as an availability charge.

**WATER/SEWER TAPS-TIME LIMIT ON USE:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to charge each occupied business or residence, connected to but not using water from the city water system, the appropriate minimum charge beginning thirty days after the connection made.

**PAID UTILITY BILLS - COLLECTION:** The City Manager advised that a customer, whom he believes has two past due bills at former locations, is refusing to pay the balance due.

The City Manager advised that unless directed otherwise, he was proceeding with legal means available for collection.

**NLC ANNUAL CONFERENCE - VOTING DELEGATE:** The City Manager advised that he sent Mayor Clark's name in to NLC as the voting delegate for the City of Marion. This had to be turned in to the National League by October 3, 1997.

Upon a motion by Councilman Martin, seconded by Councilman Edwards, those members of Council present voted to appoint Mayor Clark as the voting delegate.

**LEAF BAGS - LIMIT 12 TO RESIDENCE:** The City Manager advised that up to twelve free leaf bags are being given to Residents, instead of twenty, due to the increase in cost per bag.

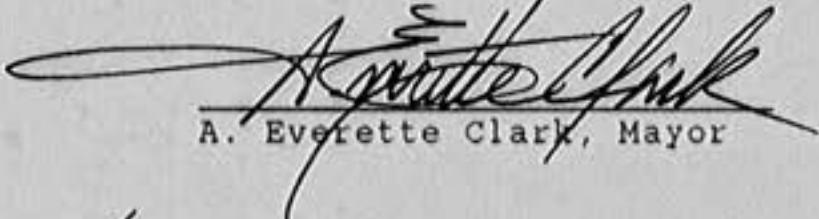
**LEAF BAGS - APARTMENT COMPLEX LIMIT:** The City Manager advised that Apartment Complex's providing yard maintenance would be treated as one residential unit and residents living in such complexes would not be given free bags.

**REQUEST - LAZER STORM:** The City Manager presented Council with a request from Mr. Jeff Trivette, Manager of Lazer Storm, requesting permission to have live entertainment on the front walk of Lazer Storm Inc, on Saturday, October 11, 1997 between 6:00 P.M. and 8:30 P.M.

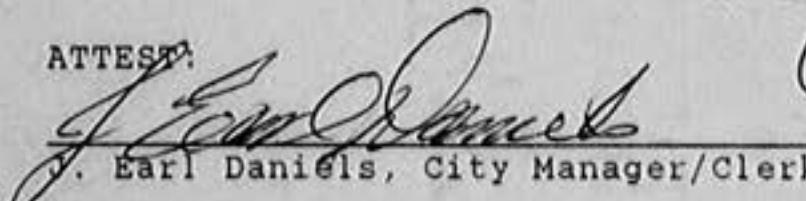
This performance will be for the promotion of Lazer Storm.

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

ADJOURNMENT: There being no further business, upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 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; 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 and Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Don Dillingham, News Reporter, The Independent News.

GUESTS PRESENT: Gary Arnold, Oak Street; and Fred Nanney, Marion Fire Department.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the minutes of the October 4, 1997 City Council Meeting.

CITIZEN COMPLAINT - NO PARKING ZONE-SPRING STREET: The citizen complaining about the establishment of a "No Parking Zone" on Spring Street was not present to discuss the matter with Council.

A brief discussion followed.

No Action was taken by Council.

COMMERCIAL TIRE SERVICE: The City Manager advised that he had been in contact with County Public Works Director Mike Gladden in reference to the change in the County's Policy on accepting tires at the landfill. Mr. Gladden advised that City Personnel would be allowed to dump the tires at a designated location and not be required to help unload and stack the tires as previously directed. The City Manager advised Council that since there will be no change, then there is no increase in cost to the City to provide the service.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to make no change in the Pick up of Commercial Tires and that the cost for pick-up remain at fifteen cents per tire.

ORDINANCE - ELIMINATES LOADING ZONE - STATE STREET: The City Manager advised that the Street Committee had been made aware that the Loading Zone is still needed at that location and recommended no change.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to table this item.

EMERGENCY MANAGEMENT MUTUAL AID AGREEMENT: The City Manager advised that he put the agenda together on Saturday morning and failed to make copies of the back side of each sheet of the Emergency Management Mutual Aid Agreement.

Due to Council having only a portion of this Agreement, it was decided to hold this item until the next City Council Meeting.

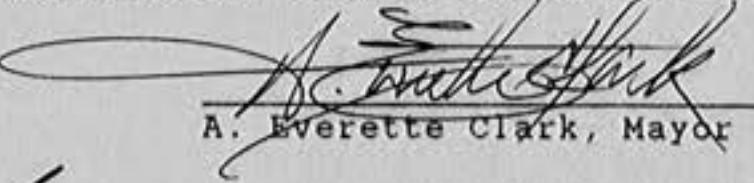
USE OF EXTERNAL DEFIBRILLATORS - DISCUSSION: Mr. Fred Nanney, of the Marion Fire Department appeared before Council and demonstrated the use of an external defibrillator. Mr. Nanny advised that with the use of the external defibrillator on persons having heart failure, statistics show one in three lives are saved. He advised that time is the key factor. The sooner the defibrillator is used, when necessary, the better chance of saving the persons life.

A discussion followed.

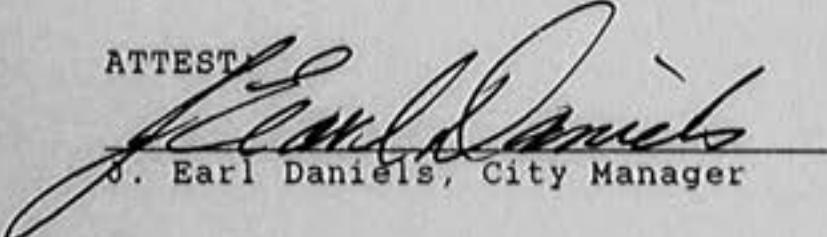
It was decided to schedule a meeting with Emergency Services Director Carroll Hemphill, and discuss the need for external defibrillators in different City Departments.

**LOADING ZONE - HOUSE THEATER - REPORT - STREET COMMITTEE:** Council discussed establishing a "Loading Zone" on East Court Street near the House Theater. It was agreed that upon request, Council would look favorably on establishing such a "Loading Zone" in the area.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to adjourn.

  
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, November 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; Mayor Pro Tem Steve Little; Councilmen Lloyd Cuthbertson, Billy Martin and Cecil Owenby.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Don Dillingham, News Reporter, The Independent News.

**GUESTS PRESENT:** Terry Smith 186 Parker Padgett Road, Old Fort, N.C. 28762; Garland Franklin 234 Spring Street, Marion, N.C. 28752; Maureen Pruett, Marion, N.C. 28752; James Haynes Robbins Oil, Marion, N.C. 28752; Michael Smith 9 Sunset Drive Marion, N.C. 28752; Rev. Carol Davis Addies Chapel Church Marion, N.C. 28752; Rev. Dewitt Miller Marion, N.C. 28752; Dianna Miller Marion, N.C. 28752; Clarence Bartlett Marion, N.C. 28752; Bessie Sellers 123 Ridley Street Marion, N.C. 28752; Louise Murphy 122 Ridley Street Marion, N.C. 28752; Tina Linder 107 Catawba Street, Marion, N.C. 28752; Tillie Twitty Marion, N.C. 28752; Amy Twitty 42 Hudgins Street Marion, N.C. 28752; Kaye Cuthbertson 201 Broad Street, Marion, N.C. 28752; Jewell McNeal Post Office Box 333 Marion, N.C. 28752; Mamie Carson 111 Oak Avenue Marion, N.C. 28752; Nancy Clark 704 Fleming Avenue Marion, N.C. 28752; Sylvia Davis 101 Nancy Tolly Hill Marion, N.C. 28752; Robert Davis 101 Nancy Tolly Hill Marion, N.C. 28752; Scottie Edwards Logan Street Marion, N.C. 28752.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to approve the minutes of the October 21, 1997 City Council Meeting.

**EMERGENCY MANAGEMENT MUTUAL AID AGREEMENT:** Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to approve the following Agreement:

**NORTH CAROLINA STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE  
AGREEMENT**  
Revision - October, 1997

THIS AGREEMENT IS ENTERED INTO BETWEEN THE NORTH CAROLINA DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, AND ITS DIVISION OF EMERGENCY MANAGEMENT OF THE STATE OF NORTH CAROLINA AND BY EACH OF THE ENTITIES THAT EXECUTES AND ADOPTS THE UNDERSTANDINGS, COMMITMENTS, TERMS, AND CONDITIONS CONTAINED HEREIN:

WHEREAS, the State of North Carolina is geographically vulnerable to a variety of natural disasters;

WHEREAS, Chapter 166A of the North Carolina General Statutes, entitled the North Carolina Emergency Management Act, recognizes this vulnerability and provides that its intended purposes are to:

- (1) Reduce vulnerability of people and property of this State to damage, injury, and loss of life and property;
- (2) Prepare for prompt and efficient rescue, care, and treatment of threatened or affected persons;

(3) Provide for the rapid and orderly rehabilitation of persons and restoration of property; and

(4) Provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response, and recovery;

WHEREAS, in addition to the State, the Federal Emergency Management Agency (FEMA) has recognized the importance of the concept of coordination between the State and local governments;

Whereas, under Chapter 166A and other chapters of the North Carolina General Statutes, entities entering into mutual aid and assistance agreements may include provisions for the furnishing and exchanging of supplies, equipment, facilities, personnel and services; and

WHEREAS, the entities which have chose to become signatories to this Agreement wish to provide mutual aid and assistance amongst one another at the appropriate times; Therefore pursuant to G.S. 166A-10(b), these entities agree to enter into this Agreement for reciprocal emergency management aid and assistance, with this Agreement embodying the understandings, commitment, terms, and conditions for said aid and assistance, as follows:

#### Section I. DEFINITIONS

"Agreement" means this document, the North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement.

"Aid and assistance" includes personnel, equipment, facilities, services, supplies, and other resources.

"Authorized Representative" means a party's employee who has been authorized, in writing by that party, to request, to offer, or to otherwise provide assistance under the terms of this Agreement. The list of Authorized Representatives for each party executing this Agreement shall be attached to the executed copy of this Agreement. (In the event of a change in personnel, unless otherwise notified that presumption will be that the successor to that position will be the authorized representative.)

"Disaster" means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property, resulting from any natural or man-made accidental, military, or paramilitary cause.

"Local Agency" means a county agency charged with coordination of all emergency management activities for its geographical limits pursuant to G.S. 166A-7.

"Party" means a governmental entity which has adopted and executed this Agreement.

"Provider" means the party which has received a request to furnish aid and assistance from another party in need (the "Recipient").

"Recipient" means the party setting forth a request for aid and assistance to another party (the "Provider").

#### Section II. INITIAL RECOGNITION OF PRINCIPLE BY ALL PARTIES; AGREEMENT PROVIDES NO RIGHT OF ACTION FOR THIRD PARTIES

As this is a reciprocal contract, it is recognized that any party to this Agreement may be requested by another party to be a Provider. It is mutually understood that each party's foremost responsibility is to its own citizens. The provisions of this Agreement shall not be construed to impose an unconditional obligation on any party to this Agreement to provide aid and assistance pursuant to a request from another party. Accordingly, when aid and assistance have been requested, a party may in good faith withhold the resources necessary to provide reasonable and adequate protection for its own community, by deeming itself unavailable to respond and so informing the party setting forth the request.

Given the finite resources of any jurisdiction and the potential for each party to be unavailable for aid and assistance at a given point in time, the parties mutually encourage each other to enlist other entities in mutual aid and assistance efforts and to enter into such agreements accordingly. Concomitantly, the parties fully recognize that there is a highly meritorious reason for entering into this Agreement, and accordingly

shall attempt to render assistance in accordance with the terms of this Agreement to the fullest extent possible.

Pursuant to G.S. 166A-14 and as elaborated upon in Section X of this Agreement, all functions and activities performed under this Agreement are hereby declared to be governmental functions. Functions and activities performed under this Agreement are carried out for the benefit of the general public and not for the benefit of any specific individual or individuals. Accordingly, this Agreement shall not be construed as or deemed to be an agreement for the benefit of any third parties or persons and no third parties or persons shall have any right of action under this Agreement for any cause whatsoever. All immunities provided by law shall be fully applicable as elaborated upon in Section X of this Agreement.

### Section III. PROCEDURES FOR REQUESTING ASSISTANCE

Mutual aid and assistance shall not be requested unless the resources available within the stricken area are deemed inadequate by Recipient. becomes affected by a disaster and deems its resources inadequate, it may request mutual aid and assistance by communicating the request to Provider, indicating the request is made pursuant to this mutual aid agreement. The request shall be followed as soon as practicable by a written confirmation of that request, including the transmission of a proclamation of local state of emergency under G.S. 166A-8 and Article 36 A of Chapter 14 of the NC General Statutes, and a completed form describing its projected needs in light of the disaster. All requests for mutual aid and assistance shall be transmitted by the party's Authorized Representative or to the Coordinator of the Local Agency as set forth below.

#### A. METHOD OF REQUEST FOR MUTUAL AID AND ASSISTANCE:

Recipient shall set forth requests by means of one of the two options described as follows:

(i) REQUESTS ROUTED THROUGH THE RECIPIENT'S LOCAL AGENCY: Recipient may directly contact the Local Agency, in which case it shall provide the Local Agency with the information in paragraph B of the Section (Section III). The Local Agency shall then contact other parties on behalf of Recipient to coordinate the provision of mutual aid and assistance. Recipient shall be responsible for the costs and expenses incurred by any Provider in providing aid and assistance pursuant to Section VII of this Agreement.

(ii) REQUESTS MADE DIRECTLY TO PROVIDER: Recipient may directly contact provider's authorized representative, setting forth the information in paragraph B of this Section (Section III). All communications shall be conducted directly between Recipient and Provider. Recipient shall be responsible for the costs and expenses incurred by any Provider in providing aid and assistance pursuant to the provisions of this Agreement as noted in Section VII of this Agreement. Provider and recipient shall be responsible for keeping Local Agencies advised of the status of response activities, in a timely manner.

(iii) RECORD OF REQUESTS TO BE PROVIDED: A record of the request for assistance shall be provided by the Recipient to the Director of the Division of Emergency Management in the NC Department of Crime Control and Public Safety, in a timely manner.

#### B REQUIRED INFORMATION:

Each request for assistance shall be accompanied by the following information, in writing or by any other available means, to the extent known:

1. Stricken Area and Status: A general description summarizing the condition of the community (i.e., whether the disaster is imminent, in progress, or has already occurred) and of the damage sustained to date;

2. Services: Identification of the services function(s) for which assistance is needed and the particular type of assistance needed;

3. Infrastructure Systems: Identification of the type(s) of public infrastructure system for which assistance is needed (water and sewer, storm water systems, streets) and the type of work assistance needed;

4. Aid and Assistance: The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed;

Provider's Traveling Employee Needs--Unless otherwise specified by Recipient, it is mutually understood that Recipient will provide for the basic needs of Provider's traveling employees. Recipient shall pay for all reasonable out-of-pocket costs and expenses of Provider's personnel, including without limitation transportation expenses for travel to and from the stricken area. Further, Recipient shall house and feed Provider's personnel at its (Recipient's) sole cost and expense. If Recipient cannot provide such food and/or housing at the disaster area, Recipient shall specify in its request for assistance that self-contained personnel are needed.

5. Facilities: The need for sites, structures, or buildings outside Recipient's geographical limits to serve as relief centers or staging areas for incoming emergency goods and services; and

6. Meeting Time and Place: An estimated time and a specific place for a representative of Recipient to meet the personnel and resources of any Provider.

C. STATE AND FEDERAL ASSISTANCE: Recipient shall be responsible for coordinating request for state or federal assistance with its (Recipient's) Local Agency.

#### Section IV. PROVIDER'S ASSESSMENT OF AVAILABILITY OF RESOURCES AND ABILITY TO RENDER ASSISTANCE

When contacted by the Recipient/Local Agency, Provider's authorized representative shall assess Provider's own local situation in order to determine available personnel, equipment, and other resources. If Provider's authorized representative determines that Provider has available resources, Provider's authorized representative shall so notify the Recipient/Local Agency (whichever communicated the request). Provider shall complete a written acknowledgment, whether on the request form received from Recipient or on another form, regarding the assistance to be rendered (or a rejection of the request) and shall transmit it by the most efficient practical means to the Recipient/Local Agency for a final response. Provider's acknowledgment shall contain the following information:

1. In response to the items contained in the request, a description of the personnel, equipment, and other resources available;
2. The projected length of time such personnel, equipment, and other resources will be available to serve Recipient, particularly if the period is projected to be shorter than one week (as provided in the "Length of Time for Aid and Assistance" section [Section VI] of this Agreement.)
3. The estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Requesting Party; and
4. The name of the person(s) to be designated as Provider's supervisory personnel (pursuant to the "Supervision and Control" section [Section V] of this Agreement.)

Where a request has been submitted to the Local Agency, the Local Agency shall respond to Provider's written acknowledgment by executing and returning a copy of the form to Provider by the most efficient practical means, maintaining a copy for its file.

## Section V. SUPERVISION AND CONTROL

Provider shall designate supervisory personnel amongst its employees sent to render aid and assistance to Recipient. As soon as practicable, Recipient shall assign work tasks to Provider's supervisory personnel, and unless specifically instructed otherwise, Recipient shall have the responsibility for coordinating communications between Provider's supervisory personnel and Recipient. Recipient shall provide necessary credentials to Provider's personnel authorizing them to operate on behalf of Recipient.

Based upon such assignments set forth by Recipient, Provider's supervisory personnel shall:

- (1) have the authority to assign work and establish work schedules for Provider's personnel. Further, direct supervision and control of Provider's personnel, equipment, and other resources shall remain with Provider's supervisory personnel. Provider should be prepared to furnish communications amount its respective operating units, and if this is not possible, Provider shall notify Recipient accordingly;
- (2) maintain daily personnel time records, material records, material records, and a log of equipment hours;
- (3) shall report work progress to Recipient at mutually agreed upon intervals.

## Section VI. LENGTH OF TIME FOR AID AND ASSISTANCE; RENEWABILITY; RECALL

Unless otherwise provided, the duration of Provider's assistance shall be for an initial period of seven days, starting from the time of arrival. Thereafter, assistance may be extended in daily or weekly increments as the situation warrants, for a period agreed upon by the authorized representatives of Provider and Recipient.

As noted in Section II of this Agreement, Provider's personnel, equipment, and other resources shall remain subject to recall by Provider to provide for its own citizens if circumstances so warrant. Provider shall make a good faith effort to provide at least twenty-four (24) hours advance notification to Recipient of its (Provider's) intent to terminate mission, unless such notice is not practicable, in which case as much notice as is reasonable under the circumstances shall be provided.

## Section VII. REIMBURSEMENTS

Except as otherwise provided below, it is understood that Recipient shall pay to Provider all documented costs and expenses incurred by Provider as a result of extending aid and assistance to Recipient. The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be in accordance with the following provisions, unless otherwise agreed in writing by Recipient and Provider. Recipient shall be ultimately responsible for reimbursement of all eligible expenses. Provider shall submit reimbursement documentation to Recipient on the forms shown in Appendix B.

**A. Personnel**-- During the period of assistance, Provider shall continue to pay its employees according to its then prevailing ordinances, rules, and regulations. Recipient shall reimburse Provider for all direct and indirect payroll costs and expenses including travel expenses incurred during the period of assistance, including, but not limited to, employee retirement benefits as provided by Generally Accepted Accounting Principles (GAAP). However, as stated in Section IX of this Agreement, Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's personnel under the terms of the North Carolina Workers' Compensation Act (Chapter 97 of the North Carolina General Statutes).

**B. Equipment**-- Provider shall be reimbursed by Recipient for the use of its equipment during the period of assistance according to the actual replacement, operation, and maintenance expenses incurred. For those according to the actual replacement, operation, and maintenance expenses incurred. For those instances in which costs are reimbursed by the Federal Emergency Management Agency (FEMA), the FEMA-eligible direct costs shall be determined necessary by its one-site supervisor(s) to maintain such equipment in safe and operational

condition. At the request of Provider, fuels, miscellaneous supplies, and minor repairs may be provided by Recipient, if practical. The total equipment charges to Recipient shall be reduced by the total value of the fuels, supplies, and repairs furnished by Recipient and by the amount of any insurance proceeds received by Provider.

C. Materials and Supplies-- Provider shall be reimbursed for all materials and supplies furnished by it and used or damaged during the period of assistance, except for the costs of equipment, fuel and maintenance materials, labor, and supplies, which shall be included in the equipment rate established in subsection B of this section (Section VII), unless such damage is caused by gross negligence, willful and wanton misconduct, intentional misuse, or recklessness of Providers personnel. Provider's personnel shall use reasonable care under the circumstances in the operation and control of all materials and supplies used by them during the period of assistance. The measure of reimbursement shall be determined in accordance with 44 C.F.R. 206.228. In the alternative, the parties may agree that Recipient will replace, with like kind and quality as determined by Provider, the materials and supplies used or damaged. If such an agreement is made, it shall be reduced to writing and transmitted to the North Carolina Division of Emergency Management.

D. Record Keeping-- Recipient and NC Division of Emergency Management Personnel shall provide information, directions, and assistance for record keeping to Provider's personnel. Provider shall maintain records and submit invoices for reimbursement by Recipient or the NC Division of Emergency Management using the format used or required by FEMA publications, including 44 C.F.R. part 13 and applicable Office of Management and Budget (OMB) Circulars.

E. Payments; Other Miscellaneous Matters as to Reimbursements-- The reimbursable costs and expense with an itemized notice shall be forwarded as soon as practicable after the costs and expenses are incurred, but not later than sixty (60) days following the period of assistance, unless the deadline for identifying damage is extended in accordance with 44 C.F.R. part 206. Recipient shall pay the bill or advise of any disputed items, not later than sixty (60) days following the billing date. These time frames may be modified in writing by mutual agreement. This shall not preclude Provider or Recipient from assuming or donating, in whole or in part, the costs and expenses associated with any loss, damage, or use of personnel, equipment, and resources provided to Recipient.

#### Section VIII. RIGHTS AND PRIVILEGES OF PROVIDER'S EMPLOYEES

Pursuant to G.S. 166A-14, whenever Provider's employees are rendering aid and assistance pursuant to this Agreement, such employees shall retain the same powers, duties, immunities, and privileges they would ordinarily possess if performing their duties within the geographical limits of Provider.

#### Section IX. PROVIDER'S EMPLOYEES COVERED AT ALL TIMES BY PROVIDER'S WORKERS' COMPENSATION POLICY

Recipient shall not be responsible for reimbursing any amount paid or due as benefits to Provider's employees under the terms of the North Carolina Workers' Compensation Act, Chapter 97 of the General Statutes, due to personal injury or death occurring during the period of time such employees are engaged in the rendering of aid and assistance under this Agreement. It is mutually understood that Recipient and Provider shall be responsible for payment of such workers' compensation benefits only to their own respective employees. Further, it is mutually understood that Provider will be entirely responsible for the payment of workers' compensation benefits to its own respective employees pursuant to G.S. 97-51.

#### Section X. IMMUNITY

Pursuant to G.S. 166A-14, all activities performed under this Agreement are hereby declared to be governmental functions. Neither the parties to this Agreement, nor, except in reasonably attempting to comply with this Agreement or any ordinance, order, rule, or regulation enacted or promulgated pursuant to the provisions of this Agreement shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity.

#### Section XI. PARTIES MUTUALLY AGREE TO HOLD EACH OTHER HARMLESS FROM LIABILITY

Each party (as indemnitor) agrees to protect, defend, indemnify, and hold the other party (as indemnitee), and its officers, employees and

agents, free and harmless from and against any and all losses, penalties, damages, assessments, costs, charges, professional fees, and other expenses or liabilities of every kind and arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of indemnitor's negligent acts, errors and/or omissions. Indemnitor further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc. at indemnitor's sole expense and agrees to bear all other costs and expenses related thereto. To the extent that immunity does not apply, each party shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Each party understands and agrees that any insurance protection obtained shall in no way limit the responsibility to indemnify, defend, and save harmless the other parties to this Agreement.

Notwithstanding the foregoing, to the extent that each party does not purchase insurance, it shall not be deemed to have waived its governmental immunity by law.

#### Section XII. ROLE OF THE DIVISION OF EMERGENCY MANAGEMENT

Under this Agreement, the responsibilities of the NC Division of Emergency Management are: (1) to serve as the central depository for executed agreements, to maintain a current listing of entities with their authorized representatives and contact information, and to provide this listing to each of the entities on an annual basis; (2) to coordinate the provision of mutual aid and assistance to a requesting party, pursuant to the provisions of this Agreement; (3) to keep a record of all requests for assistance and acknowledgments; (4) to report on the status of ongoing emergency or disaster-related mutual aid and assistance as appropriate; and (5) if the parties so designate, to serve as the eligible entity for requesting reimbursement of eligible costs from FEMA and provide information, directions, and assistance for record keeping pursuant thereto.

#### Section XIII. AMENDMENTS

Manner-- This Agreement may be modified at any time upon the mutual written consent of the Recipient and Provider.

Addition of Other Entities-- Additional entities may become parties to this Agreement to the NC Division of Emergency Management.

#### Section XIV. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION

This Agreement shall be binding for not less than one (1) year from its effective date, unless terminated upon at least sixty (60) days advance written notice by a party as set forth below. Thereafter, this Agreement shall continue to be binding upon the parties in subsequent years, unless canceled by written notification served personally or by registered mail upon the Director of NC Division of Emergency Management, which shall provide copies to all other parties. The withdrawal shall not be effective until sixty (60) days after notice thereof has been sent by the Director of the NC Division of Emergency Management to all other parties. A party's withdrawal from this Agreement shall not affect a party's reimbursement obligations or any other liability or obligation under the terms of this Agreement incurred hereunder. Once the withdrawal is effective, the withdrawing entity shall no longer be a party to this Agreement, but this Agreement shall continue to exist among the remaining parties.

#### Section XV. HEADINGS

The headings of various sections and subsections of this Agreement have been inserted for convenient reference only and shall not be construed as modifying, amending, or affecting in any way the express terms and provisions of this Agreement.

#### Section XVI. SEVERABILITY: EFFECT ON OTHER AGREEMENTS

Should any clause, sentence, provision, paragraph, or other part of this Agreement be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement. Each of the parties declares that it would have entered into this Agreement irrespective of the fact that it would have entered into this Agreement's clauses, sentences, provisions, paragraphs, or other parts have been so declared invalid. Accordingly, it is the intention of the parties that the remaining portions of this Agreement shall remain in full force and effect without regard to the clause(s), sentence(s), provisions(s), paragraph(s), or other part(s) invalidated.

In the event that parties to this Agreement have entered into other mutual aid and assistance contracts, for example pursuant to Chapter 160A of the North Carolina General Statutes, those parties agree that to the extent a request for mutual assistance is made pursuant to this agreement, those other mutual aid and assistance contracts are superseded by this Agreement.

#### Section XVII. EFFECTIVE DATE

This Agreement shall take effect upon its approval by the entity seeking to become a signatory to this Agreement and upon proper execution hereof.

IN WITNESS WHEREOF, each of the parties have caused this North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement to be duly executed in its name and behalf by its chief executive officer, who has signed accordingly with seals affixed and attested with concurrence of a majority of its governing board, as of the date set forth in this Agreement.

DIVISION OF EMERGENCY MANAGEMENT  
DEPARTMENT OF CRIME CONTROL AND  
PUBLIC SAFETY

WITNESS:

BY: \_\_\_\_\_  
Richard H. Moore, Secretary  
Division of Emergency Management  
Date: \_\_\_\_\_

WITNESS:

BY: \_\_\_\_\_  
William A. Dudley, Deputy Secretary  
Department of Crime Control & Public  
Safety  
DATE: \_\_\_\_\_

WITNESS:

BY: \_\_\_\_\_  
Chief Executive Officer - Local  
Government Unit Printed Name & Title  
Name of Unit: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AS TO PROCEDURES:

BY: \_\_\_\_\_  
J. Michael Barham, Controller  
Department of Crime Control and  
Public Safety -  
Date: \_\_\_\_\_

**EMERGENCY MANAGEMENT MUTUAL AID AGREEMENT:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to authorize the following representatives as contact persons for emergency assistance:

- I. Primary Representative - A. Everette Clark, Mayor
- II. Primary Representative - J. Earl Daniels, City Manager
- III. Primary Representative - Glen Sherlin, Public Works Director

**TILLY TWITTY - REQUEST TO ADDRESS COUNCIL:** Ms. Tilly Twitty, as well as several Ministers from the West Marion Community, appeared before Council thanking them for their support.

Ms. Twitty advised that the West Marion Community Watch and other programs have received a great deal of support from Council and the Marion Police Department.

According to Ms. Twitty, the West Marion Community is not where they would like for it to be, but they thank God it's not where it used to be.

Mayor Clark thanked Ms. Twitty and other members of the West Marion Community for their hard work in improving the Community.

Mayor Clark also recognized the work of the Marion Police Department and Dr. Christopher Eaddy, an employee with the N.C. Attorney Generals' office, who has worked with residents of West Marion to address some of their concerns about their Community.

Other Council Members echoed Mayor Clark's praise for Ms. Twitty's hard work.

Councilman Little rose to applaud her and the rest of the room followed suit, giving Ms. Twitty a standing ovation.

**RESOLUTION/AGREEMENT - DOT INSPECTION OF BRIDGES:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution:

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

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

WHEREAS, the City of Marion proposes to enter into an agreement with the North Carolina Department of Transportation to perform certain work under the Federal-Aid Highway Bridge Replacement and Rehabilitation Program, said work to consists of the reinspection and analysis of all public bridges on the Municipal Street System in the City of Marion; and

WHEREAS, the City of Marion proposes to enter into an agreement with the North Carolina Department of Transportation for said work wherein the Department of Transportation or a consulting engineering firm retained by the Department of Transportation will reinspect and prepare the necessary reports for all public bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards; and

WHEREAS, under the proposed agreement the Federal Highway Administration shall reimburse the Department of Transportation for eighty (80) percent of the cost of the work subject to compliance with all applicable federal policy and procedural rules and regulations; and

WHEREAS, under the proposed agreement the City of Marion shall reimburse the Department of Transportation for all costs of the work incurred by the Department of Transportation not paid by the Federal highway Administration.

NOW, THEREFORE, BE IT RESOLVED that the agreement for the hereinabove referenced bridge inspection work is hereby formally approved by the City of Marion and the Mayor and Clerk (or Manager) of this Municipality are hereby empowered to sign and execute the required agreement between the City of Marion and the Department of Transportation.

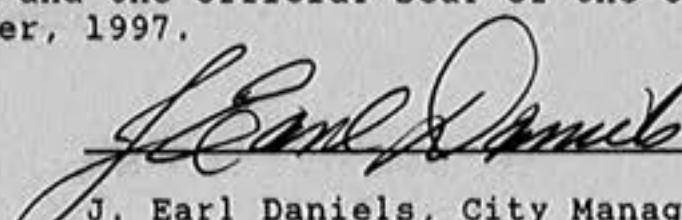
This Resolution was passed and adopted the 4th day of November, 1997.

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

WITNESS, my hand and the official seal of the City of Marion on this the 4th day of November, 1997.

SEAL OF

MUNICIPALITY

  
J. Earl Daniels, City Manager/Clerk

City of Marion, North Carolina

**PETITION REQUESTING A NONCONTIGUOUS ANNEXATION:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the following petition:

**PETITION REQUESTING A NON-CONTIGUOUS ANNEXATION**

Date: October 31, 1997

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

1. We the undersigned owners of real property respectfully request that the area described in Paragraph 2 below be annexed to the City of Marion, North Carolina.

2. The area to be annexed is non-contiguous to the City of Marion, North Carolina and the boundaries of such territory are as follows:

3. A map is attached showing the area proposed for annexation in relation to the primary corporate limits of the City of Marion.

4. We acknowledge that any zoning vested rights acquired pursuant to G.S. 160A-385.1 or G.S. 153A-344.1 must be declared and identified on this petition. We further acknowledge that failure to declare such rights on this petition shall result in a termination of vested rights on this petition shall result in a termination of vested rights previously acquired for the property.

Name	Address	Do you declare vested rights?	Signature
A. Robbins Oil Co DB 538, P 524	P.O. Box 207 Forest City, NC 28043	No	_____
B. Robbins Oil Co DB 400, P181	P.O. Box 207 Forest City, NC 28043	No	_____
C. Robbins Oil Co	P.O. Box 207 Forest City, NC 28043	No	_____
D. Terry Lee Smith DB 520, P935 Robin Smith	186 Parker Padgett Road Old Fort, N.C.	No	_____

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE  
A PETITION RECEIVED UNDER G.S. 160A-58.1**

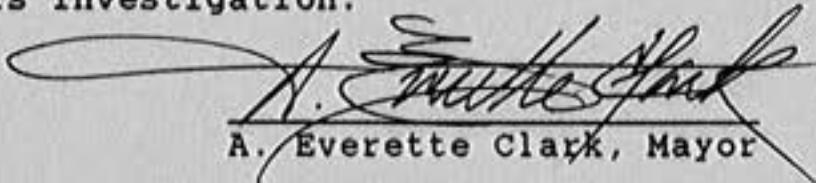
WHEREAS, a petition requesting annexation of an area described in said petition was received on November 4, 1997 by the City of Marion; and

WHEREAS, G.S. 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City of Marion Clerk before further annexation proceedings may take place; and

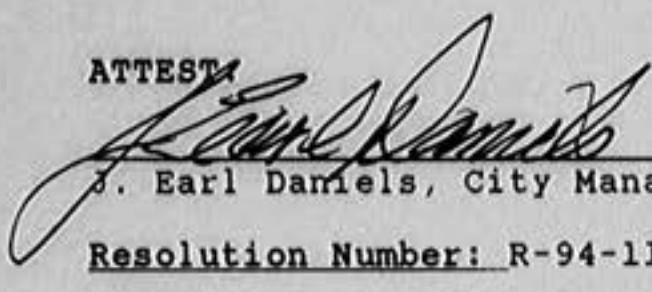
WHEREAS, THE Marion City Council of the City of Marion deems it advisable to proceed in response to this request for annexation:

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

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

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**Resolution Number:** R-94-11-04-1

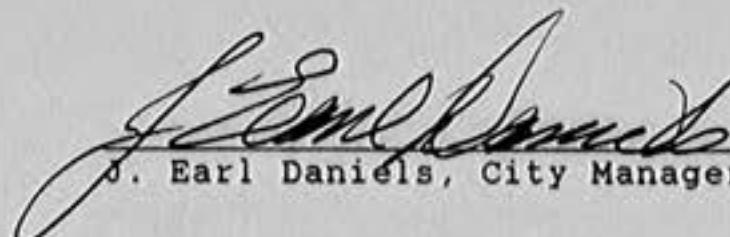
**CERTIFICATE OF SUFFICIENCY:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the certificate of sufficiency as follows:

**CERTIFICATE OF SUFFICIENCY**

To the Marion 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion, this 4TH day of November, 1997.



J. Earl Daniels, City Manager/Clerk

(SEAL)

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.2:** Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Resolution:

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160-58.2**

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

WHEREAS, the Marion 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 Marion City Council of the City of Marion, North Carolina that:

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at 7:00 P.M. on November 18, 1997.

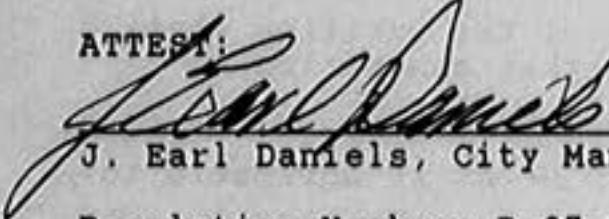
Section 2. The area proposed for annexation is described as follows: (Legal Description Attached)

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



A. Everette Clark

ATTEST:



J. Earl Daniels, City Manager/Clerk

Resolution Number: R-97-11-04-2

**REQUEST - MR. TERRY SMITH:** Mr. Terry Smith, Owner of Designer Hardwood, appeared before Council requesting that due to Council's approval to annex Designer Hardwood, he would request that Council consider charging him inside connection fees.

A brief discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to approve this request.

**PROCLAMATION - AMERICA RECYCLES DAY:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution:

**PROCLAMATION  
AMERICA RECYCLES DAY**

Each year, more than 208 million tons of municipal solid waste go into the nation's landfills. That's more than 4.3 pounds per person per day. While the nation has reached an overall recycling rate of just over 25 percent much more can be done.

WHEREAS, to focus the nation's attention on the importance of recycling, businesses, industries, state agencies, nonprofit organizations, and individuals have joined together to celebrate "America Recycles Day," and are encouraging their employers, staff, customers, membership and all citizens to pledge to start or enhance recycling programs and buy recycled products on November 15;

WHEREAS, participating in America Recycling Day is one way citizens can help raise awareness about the need to reduce waste by reusing, recycling, and buying recycled products;

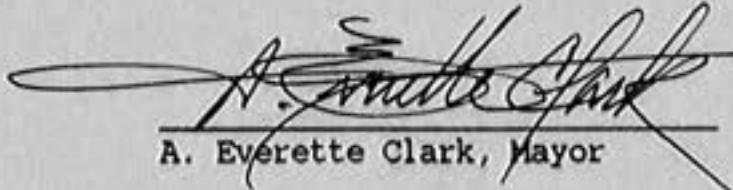
WHEREAS, recycling saves millions of dollars in disposal costs, creates jobs, and is recognized as an easy way for everyone to help protect the environment by avoiding unnecessary use of important resources;

WHEREAS, state and community leaders need to spread the word about the excellent programs they have established, the growth of markets for recyclables, the importance of buying recycled products, the need to expand the collection of recyclable materials, and the benefits of investments in recycling by small and large businesses;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARION THAT SATURDAY, NOVEMBER 15, 1997, IS HEREBY PROCLAIMED AS:

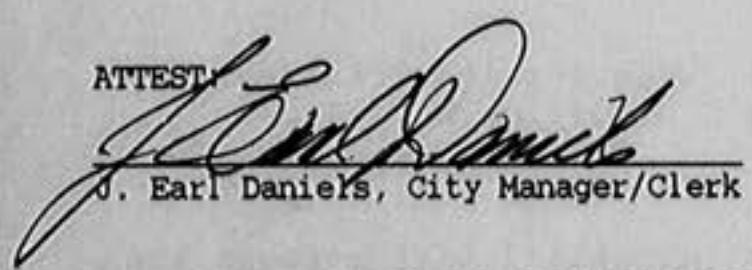
AMERICA RECYCLES DAY

RESOLVED this 4th day of November, 1997.



A. Everette Clark, Mayor

ATTEST:

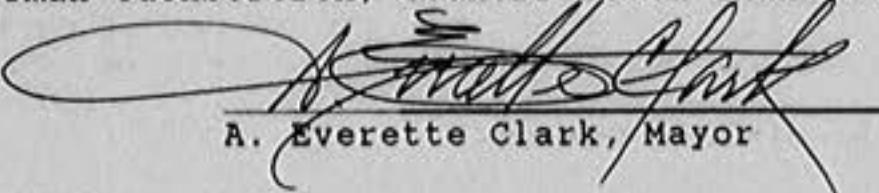


J. Earl Daniels, City Manager/Clerk

**EMPLOYEE LONGEVITY PAY/BENEFITS:** The City Manager advised that longevity checks are usually given out to employees prior to Thanksgiving day. Funds are included in the City Budget.

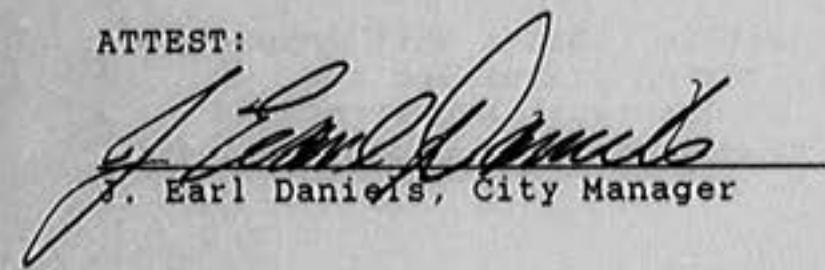
Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted to approve this request based on the formula approved by Council.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn.



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 Monday evening, December 1, 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, Aaron Adams, Street Superintendent; Secretary; Buck Byrd, Chief Water Filter Plant Operator; Alvin Callahan, Building Inspector; Lee Dillingham, Public Works Department; Claudia Hill, Tax Collector; Mack Laughridge, Assistant Fire Chief; Tom Milligan, Fire Chief; Bobby Painter Virginia Road Marion, NC 28752 Robert Parker, Administrative Assistant; Jerry Poteat, MFD; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Lovina Smith, Zoning Administrator; Charles Burgin, City Attorney; Penn Dameron, City Attorney; Ragan Robinson, News Reporter, The McDowell News; Bonnie Edgar, News Reporter, The McDowell Independent; Van McKinney, News Reporter, WBRM Radio; Judge Loto Greenlee Caviness.

**GUESTS PRESENT:** Rev. & Mrs. Robert Davis 101 Nancy Tolly Street Marion, NC 28752; Nancy Clark 704 Fleming Avenue Marion, NC 28752; Jonelle Daniels 445 South Garden Street Marion NC 28752; Maureen Pruett Marion, NC 28752; Sally and Mary Virginia Little 424 South Garden Street Marion, NC 28752; Warren Hobbs Marion, NC 28752; Lisa & Paul Davis Marion, NC 28752; Adam & Madison Davis Marion, NC 28752; Marc & Kristine Edwards Dogwood Lane Marion, NC 28752; Adam & Katie Edwards Dogwood Lane, Marion, NC 28752; Bonnie Edwards Pulliam Street Marion, NC 28752; Kaye Cuthbertson 21 Broad Street Marion, NC 28752; Ada Mae Cuthbertson Marion, NC 28752; Howard & Jewel McNeal Marion, NC 28752; Ronnie Smith 24 Fox Wood Drive Marion, NC 28752; Chuck Abernathy Madison Street Marion, NC 28752; Scottie Edwards 21 North Logan Street Marion, NC 28752;

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the minutes of the November 18, 1997 City Council Meeting.

**OATH'S OF OFFICE:**

Loto Greenlee Caviness, Resident Superior Court Judge for the 29th Judicial District, North Carolina, administered the Oath's of Office as follows:

**Mayor A. Everette Clark**

I, A. Everette Clark, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Mayor, for the City of Marion, North Carolina, so help me God.

**Councilman Lloyd W. Cuthbertson**

I, Lloyd W. Cuthbertson, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Councilman, for the City of Marion, North Carolina, so help me God.

**Councilman A. Michael Edwards**

I, A. Michael Edwards, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Councilman, for the City of Marion, North Carolina, so help me God

**Councilman Stephen R. Little**

I, Stephen R. Little, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as Councilman, for the City of Marion, North Carolina, so help me God

**APPOINT CITY ATTORNEY(S):** Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to appoint Dameron & Burgin as City Attorney's.

Loto Greenlee Caviness, Resident Superior Court Judge for the 29th Judicial District, North Carolina, administered the Oath's of Office as follows:

I, E. Penn Dameron, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as City Attorney, for the City of Marion, North Carolina, so help me God.

I, Charles E. Burgin, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as City Attorney, for the City of Marion, North Carolina, so help me God.

**APPOINT CITY CLERK/FINANCE OFFICER:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to appoint J. Earl Daniels as City Clerk/Finance Officer.

Loto Greenlee Caviness, Resident Superior Court Judge for the 29th Judicial District, North Carolina, administered the Oath's of Office as follows:

I, J. Earl Daniels, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as City Clerk/Finance Officer, for the City of Marion, North Carolina, so help me God.

**APPRECIATION OF TWENTY-FIVE YEAR SERVICE - SPECIAL PRESENTATION:** Mayor Clark advised that twenty-five years ago today Earl Daniels, came to Marion to become our City Manager. He was a young man at that time with a young wife (Jonelle) and three small children, Dee Dee, Lisa and Jason. Earl's Family has grown over the years. He now has two Son-in-laws, a Daughter-in-law and four Grand Children.

When Earl came to Marion and became City Manager he never dreamed that he would be here twenty five years later and that we would be recognizing him tonight for his twenty five years of service to the Citizens of Marion.

It took several calls by former Mayor Jim Segars to persuade Earl to come to Marion and then he came with apprehension. Earl's home town is Washington, N.C. (known to some as "Little Washington"). Earl first started with local government as a building inspector in Washington and then he was City Manager of Belhaven and Havelock before coming to Marion. I know making the decision to move from Havelock to Marion probably was one of the hardest decisions that Earl and Jonelle have ever made. I believe that this was a good decision for the Daniels and I know that Marion and its Citizens have greatly benefited by Earl being City Manager and his Family's involvement in the community.

There have been so many accomplishments by the City of Marion in the last twenty five years and Earl has been a part of those accomplishments. Annexation, water plant enlargement, 5 million gallons of water storage, water line extensions and enlargements, two new waste water treatment plants, City Hall, Fire Department, Police Station, renovation and enlargement of City Warehouse, new streets, underground wiring, beautification projects and the list goes on and on .....

Earl has served on so many Boards that I can not begin to name them, but I will tell you he was just honored by Appalachian State University by being named an honorary Alumni. The City of Marion has through the years had a number of students to intern with Earl and a number of those students are now City or County Managers. Earl can be proud of them because he was their mentor.

Mayor Clark stated that he was proud of Earl and personally thanked him for all that he had done for him and for the Citizens of Marion.

Several Council Members as well as County Manager Chuck Abernathy expressed their appreciation to the City Manager.

The plaque presented to J. Earl Daniels read as follows:

Presented to J. Earl Daniels City Manager in Recognition of twenty-five years of loyal and dedicated service to the City of Marion, N.C. December 1, 1997 by Mayor A. Everette Clark City Council Mike Edwards, Steve Little, Billy Martin, Cecil Owenby, Lloyd Cuthbertson and City Employees.

**COUNCIL SELECT MAYOR PRO TEMPORE:** Councilman Martin nominated Councilman Little as Mayor Pro Tem, Councilman Cuthbertson seconded the nomination.

Councilman Owenby nominated Councilman Edwards as Mayor Pro Tem, Councilman Edwards seconded the nomination.

Mayor Clark asked that this vote be made by secret ballot.

The vote was as follows:

Three votes for Councilman Little  
Two votes for Councilman Edwards

The Motion made by Councilman Martin, seconded by Councilman Cuthbertson, carried with a three to two vote.

**APPOINT COUNCILMAN TO FIREMEN'S RELIEF FUND BOARDS OF TRUSTEES:** Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to appoint Councilman Edwards to the Firemen's Relief Fund Board of Trustees.

**RESOLUTION - AUTHORIZING EXCHANGE OF VEHICLES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

RESOLUTION

AUTHORIZING EXCHANGE OF VEHICLES

WHEREAS, the City of Marion owns a 1990 model Chevrolet Pick-up having an appraised value of \$10,000.00, and a 1987 model Chevrolet Astro Minivan having an appraised value of \$3,000.00, both of which are used by the Marion Police Department; and

WHEREAS, Sonny's Used Cars, of Marion (hereinafter referred to as "Dealer") owns a 1993 model Ford Explorer 4x4 Automobile, having an appraised value of \$13,000.00, which Dealer is willing to trade for the two vehicles referred to above; and

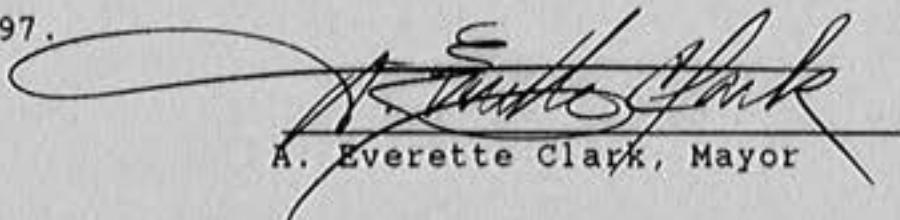
WHEREAS, the City desires to make such a trade, and would thereby receive full and fair consideration in exchange for its 1990 Pick-up and 1987 Minivan police vehicles; and

WHEREAS, notice of the Marion City Council's intent to consider this resolution at its regularly scheduled December 1, 1997, meeting was published in The McDowell News on November 21, 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 1993 model Ford Explorer by private negotiation, provided that the City shall not make any payment (except standard fees required for licensing and the like) for the vehicle other than trading in the police vehicles.

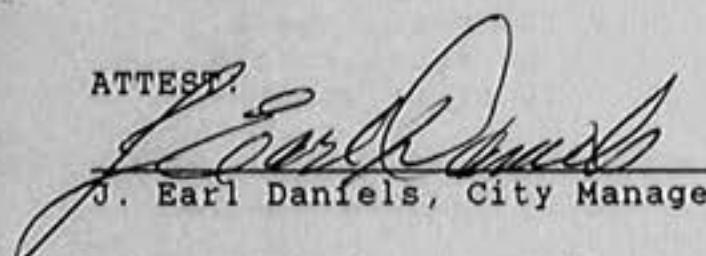
This the 1st day of December, 1997.

SEAL



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

Resolution Number: R-97-12-01-01

**PRIVILEGE LICENSE REFUND BYRD'S VENDING:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector advising that when the Privilege License for the July 1, 1997 - June 30, 1998 were being billed, she discovered that Byrd's Vending was exempted as stated in General Statute 105-65.1.

As stated in the statute for Merchandising Machines. No. 3 reads Exemptions and special provisions. Cities and counties may not tax the activities listed in this section. This includes operating, maintaining, or placing on location merchandising dispensers which store any articles or merchandise to be purchased.

Byrd's Vending was not billed for this fiscal year. Privilege License were purchased for the fiscal years, July 1, 1995 - June 30, 1996 and July 1, 1996 - June 30, 1997, the cost was \$25.00 per year.

Due to this clerical error, Ms. Hill requests that Byrd's Vending be refunded \$50.00.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to refund \$50.00 to Byrd's Vending as requested by Ms. Hill.

**CITIZEN'S REQUEST TO WAIVE \$5.00 PENALTY:** The City Manager presented Council with a request from Mr. Tim McPeters. The Marion Post Office mislaid this water bill addressed to Elsies Florist and delivered it late to 132 South Main Street causing a \$5.00 late fee to be added to this account.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted to waive this late penalty.

**EXPRESSION OF APPRECIATION - MARION FIRE DEPARTMENT:** The City Manager presented a memo from Chief Tom Milligan advising that Donald Anderson, Jimmy Morris, Bruce Edwards, Jim Neal and Durwood Creson have volunteered many hours of their time during the past year to fill in for the three shift firemen for vacation, holidays, sick leave, etc. All of these men are experienced firefighters and qualified driver/pump operators.

The fire Chief is recommending that \$1,300.00 be given to Donald Anderson, Bruce Edwards and Jimmy Morris and that \$700.00 be given to Jim Neal and \$600.00 be given to Durwood Creson.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to approve this request as stated above with the appropriate tax forms.

**PLANNING SESSION:** A discussion was held in reference to the Planning Session usually held in January.

A date was not set for this meeting.

**TOWN MEETING:** A discussion was held in reference to the next Town Meeting.

It was decided to hold the next town meeting on January 22, 1997 at the Marion Community Building.

Notices will be sent to all local churches.

Invitations will be sent to Duke Power, Intermedia, Emergency Management, Marion Post Office and the local Railroad Company.

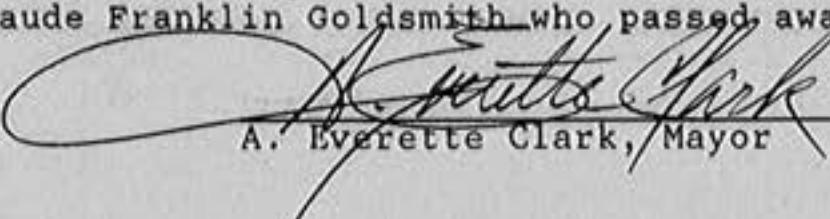
The Public Works Director was directed to make and place signs in the four places designated for this type sign.

**CURFEW DISCUSSION:** Councilman Edwards made mention of the recent vandalism that has occurred in the downtown area.

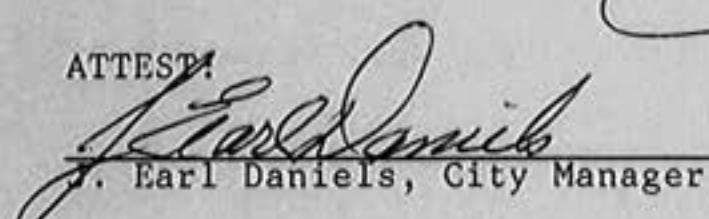
A discussion followed.

Council directed the Chief of Police to put together a curfew to present to Council at the next Regular scheduled City Council Meeting in January.

**ADJOURNMENT:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously adjourn this meeting in Memory of the late Former Mayor Claude Franklin Goldsmith who passed away on November 29, 1997.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, January 6, 1998 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.

Councilman Martin arrived for this meeting at 7:20 P.M.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News; Gail Sewell, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Jane Wright Fox 315 Euclid Avenue Marion, N.C. 28752; Mr. & Mrs. Colon Wright 419 Greenlee Street, Marion, N.C. 28752; Mr. & Mrs. Jeffery Lewis 134 Harmony Grove Road Nebo, N.C. 28761.

**APPROVAL OF MINUTES:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those Members of Council present voted to approve the minutes of the December 1, 1997 City Council Meeting.

CITIZEN OF THE MONTH - PRESENTATION OF CERTIFICATE: The first "person of the month" to receive a Certificate of Appreciation was selected by Councilman Cecil Owenby. Councilman Owenby presented the following information about Mr. Colon Wright.

MR. COLON WRIGHT

Mr. Colon Wright, born July 1, 1947 in Falston, North Carolina.

He graduated from Lenoir Rhyne College, then went to work as Assistant Coach in China Grove. After one year, he was Head Coach.

Mr. Wright came to Marion in the forties and worked for Sain and Brooks Motor Company. In 1949 he became the Coach for P.G. School. He retired from the McDowell County School System.

Many other outstanding remarks was made about Mr. Wright's contribution to Marion. He has touched many lives.

Mayor Clark presented Mr. Wright with a Certificate of Appreciation.

Mayor Clark ended this presentation by stating that behind every good man is a good women.

SKATE BOARD PARK REQUEST: Mr. & Mrs. Jeffery Lewis appeared before Council regarding the City's future plans to build a Skate Board Park.

Mr. & Mrs. Lewis was advised that no plans have been made by the City but this matter will be one of the topics for this years City Council Planning Session.

HIGHLAND DRIVE - PARKING COMPLAINT - MR. MIKE CONNOR: The City Manager presented Council with a memo from Police Chief Tom Pruett advising that he had received a parking complaint from Mike Connor of 117 Highland Drive. His complaint is that people are parking on the street and that the street is not wide enough to support on-street parking.

Chief Pruett advised that the Street is seventeen feet wide in the area of Mr. Connor's residence.

Chief Pruett recommends that this complaint be looked at by the Street Committee.

The Street Committee will meet on January 16, 1998 at 8:00 A.M.

PROPOSED CHANGE WORK ORDER NUMBER ONE - CLEARWELL: Upon a motion by Councilman Little seconded by Councilman Cuthbertson, Council voted unanimously to approve the following change order:

Hickory Construction Company - Water Treatment Plant - Clear Well Change Order Summary.

Additional instrumentation, sampling equipment and PVC piping \$8,910.00

12-inch ductile iron pipe air vent placed on top of the new clearwell 1,397.00

Internal piping into the drain line from the clearwell to the nearby manhole 937.00

20-inch core hole to allow the tie-in 790.00

Additional 20-inch ductile iron pipe fittings to make the tie-in 2,420.00

A steel plate added between the two compartments of the clearwell 968.00

TOTAL COST OF ALL ITEMS DESCRIBED ABOVE \$15,422.00

ORIGINAL CONTRACT AMOUNT \$540,000.00

PROPOSED CONTRACT CLOSE-OUT CHANGE ORDER 15,422.00

TOTAL CONSTRUCTION COST AND REVISED CONTRACT AMOUNT \$555,422.00

**CITY BUDGET - PROPOSED AMENDMENT:** Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to amend the City Budget as follows:

**CITY OF MARION, NORTH CAROLINA  
1997-98 BUDGET ORDINANCE  
FIRST AMENDMENT**

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

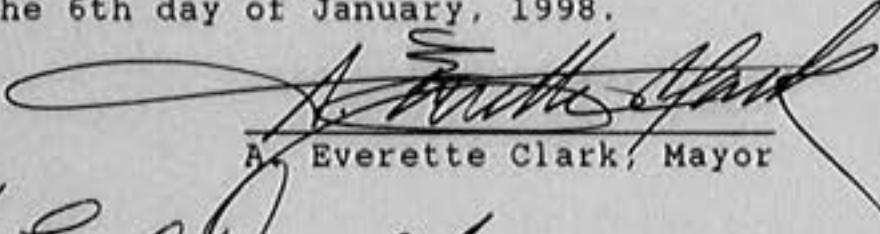
Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 1997-98 as adopted by the City Council on the 17th day of June 1997, is hereby amended as follows:

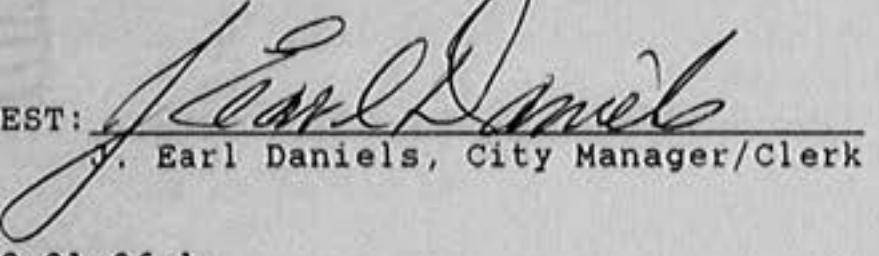
a. Water and Sewer Expenditures, Non Departmental Account Number 30-660-95 - TRANSFER TO CAPITAL PROJECT BUDGET ORDINANCE TO EXTEND WATER AND WASTEWATER UTILITIES FOR DESIGNER HARDWOODS, INC., IS INCREASED FROM \$0.00 TO \$35,000.

b. Water and Sewer Revenues, FUND BALANCE APPROPRIATED, Account Number 30-229-00, is increased from \$354,909 TO \$389,909.

Section 2. Copies of this Budget Amendment shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 6th day of January, 1998.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk

0-98-01-06-1

**DESIGNER HARDWOOD PROJECT - BUDGET AMENDMENT:** Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to amend the Designer Hardwood Project Budget as follows:

**CITY OF MARION, NORTH CAROLINA  
CAPITAL PROJECT BUDGET ORDINANCE  
TO EXTEND WATER AND WASTEWATER UTILITIES  
FOR DESIGNER HARDWOODS, INC.**

**FIRST AMENDMENT**

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

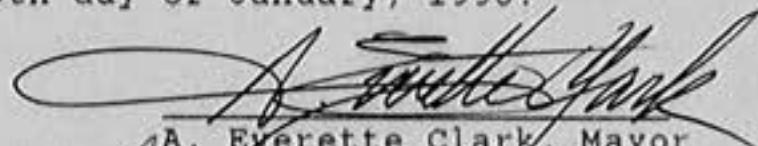
Section 1. That the Capital Project Budget Ordinance to Extend Water and Wastewater Utilities for Designer Hardwoods, Inc., as adopted by the City Council on the 17th day of June 1997, is hereby amended as follows:

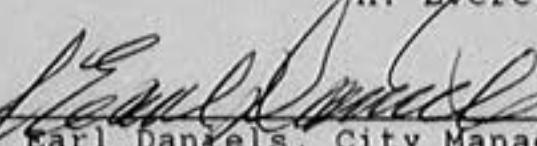
Expenditures:	Budget	Amended Budget
Construction Costs	\$ 39,500	\$ 65,000
Engineering Fees	6,550	14,000
Contingency	3,950	6,000
<hr/>		
Total Project Costs	\$ 50,000	\$ 85,000

Revenues:	Budget	Amended Budget
N.C. Department of Commerce - IDF	\$ 37,500	\$ 37,500
Local Funds	12,500	47,500
<hr/>		
Total Revenues	\$ 50,000	\$ 85,000

Section 2. Copies of this Budget Amendment shall be furnished to the Budget Officer to be kept on file for direction in the disbursement of funds.

ADOPTED this the 6th day of January, 1998.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk

0-98-01-06-2

**SEWER LINE BIDS - DESIGNER HARDWOOD PROJECT:** Upon a motion by Councilman Owenby, seconded by Councilman Little, Council voted unanimously to accept the low bid from McCormick Grading and Utilities, including alternate 1 and alternate 2, totaling \$61,665.00.

The bids received for this project are as follows:

McCormick Grading	\$ 61,665.00
T&K Utilities	88,859.00
Hobson Construction Co.	64,005.00
Terry Brothers Const. Co.	77,024.00
Thorpe Const. Co.	86,896.00
Iron Mountain Const. Co.	88,859.00
Precision Contracting, Inc.	64,005.00

**RESOLUTION - NATIONS BANK - POLICE CRIME CONTROL GRANT:** Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Resolution:

RESOLUTION  
CITY OF MARION  
POLICE CRIME CONTROL GRANT

1. Resolved, that NationsBank (the "Bank") is hereby designated as a depository of the Corporation and that deposit accounts and/or time deposits (CDs) be opened and maintained in the name of this Corporation with Bank in accordance with the terms of the Bank's Deposit Agreement and Disclosures and the applicable rules and regulations for such accounts; that any one of the following officers or employees of this Corporation,

Mayor  
City Manager  
Administrative Assistant  
Bookkeeper

is hereby authorized, on behalf of this Corporation and in its name, to execute and to sign any application, deposit agreement, signature card and any other documentation required by Bank to open said accounts; to sign checks, drafts, notes, bills, time deposits (CDs) or other instruments owned or held by this Corporation for deposit with Bank or for collection or discount by Bank; to accept drafts, acceptances, and other instruments payable at Bank; to place orders with Bank for the purchase and sale of foreign currencies on behalf of this Corporation; to execute and deliver an electronic fund transfers agreement and to make transfers or withdrawals by electronic transfer on behalf of the Corporation; to obtain an access device (including but not limited to a card, code, or other means of access to the Corporation's accounts) that may be used for the purpose of initiating electronic fund transfers (Corporation agrees and acknowledges that neither the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.) nor Regulation E (12 C.F.R. Part 205) are applicable to any such access device); to establish and maintain a night deposit relationship; to execute and deliver a wire transfer agreement and to request, or to appoint or delegate from time to time such persons who may request, wires of funds; to enter into any agreements with the Bank for the provision by Bank for the provision by Bank of various Treasury Management services to this Corporation as such officer or employee may determine, in his or her sole discretion, and to sign any and all documents and take all actions required by Bank relative to such Treasury Management services or the performance of the Corporation's obligations thereunder, and that any such Treasury Management agreement(s) shall remain in full force and effect until written notice to terminate given in accordance with the terms of nay such agreement shall have been received by Bank prior to such termination; to rent or lease a safe deposit box from Bank, to execute the rental agreement or lease, to enter the safe deposit box and to terminate the rental agreement or lease; to take whatever other actions or enter into whatever other agreements relating to the accounts or investment of funds in such accounts with Bank and to execute, amend, supplement and deliver to Bank such agreements on behalf of the Corporation upon such terms and conditions

as such officer or employee may deem appropriate and to appoint and delegate, from time to time, such person(s) who may be authorized to enter into such agreements and take any other actions pursuant to such agreements in connection with said accounts that the officer or employee deems necessary; and to waive presentment, demand, protest, and notice of protest or dishonor of any check, note, bill, draft, or other instrument made, drawn or endorsed by this corporation; and

2. Further Resolved, that the Bank be and is hereby authorized to honor, receive, certify, pay or exchange for money orders or other instruments all instruments signed in accordance with the foregoing resolutions even though such payment may create and overdraft or even though such instruments may be drawn or endorsed to the order of any officer or employee signing the same or tendered by such officer or officer's or employee's personal account and 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 forgoing resolutions or the application or disposition of such instrument or the proceeds thereof; and, further, that the Bank is authorized to honor any instructions regarding withdrawals, orders for payment or transfer of funds whether oral, by telephone or electronic means if such withdrawal, orders or transfer are initiated by an above authorized officer or employee; and

3. Further Resolved, that the Bank be and is hereby requested, authorized and directed to honor and to treat as authorized, checks, drafts or other orders for the payment of money drawn or purportedly drawn in this Corporation's name, including those payable to the individual order of any person whose name appears thereon as signer thereof, when bearing or purporting to bear the facsimile signature of an officer or employee authorized in the foregoing resolutions and Bank shall be entitled to honor, to treat as authorized, 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 thereon may have been affixed thereto, if such signature resembles the facsimile specimen duly certified to or filed with the Bank by the Secretary or Assistant Secretary or other officer of this corporation or if such facsimile signature resembles any facsimile signature previously affixed to any check, draft, or other order drawn in the Corporation's name, which check, draft, or other order was accepted and paid without timely objection by the Corporation, thereby ratifying the use of such facsimile signature; and the Corporation hereby indemnifies and holds the Bank harmless against any and all loss, cost, damage or expense suffered or incurred by the Bank arising out of or in any way related to the misuse or unlawful or unauthorized use by a person of such facsimile signature; and

4. Further Resolved, that endorsements for deposit may be evidenced by the name of the Corporation being written or stamped on the check or other instrument deposited, without designation of the party making the endorsement, and Bank is authorized to supply any endorsement on any instrument tendered for deposit or collection; and

5. Further Resolved, that the Secretary or Assistant Secretary of this Corporation shall certify to Bank names and signatures of persons authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the identity of said officers and employees are made, immediately report, furnish and certify such changes to Bank and shall submit to Bank a new account and shall be indemnified and saved harmless from any claims, demands, expenses, losses, or damages 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

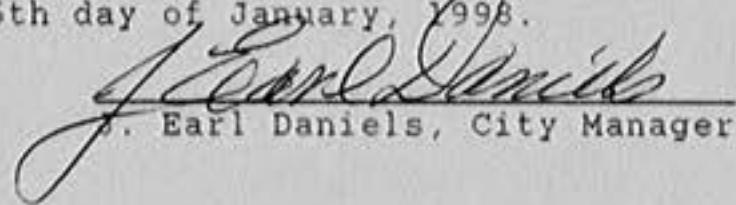
6. Further Resolved, the forgoing Resolutions shall remain in full force and effect and the authority herein given to all of said persons shall remain irrevocable as far as Bank is concerned until three (3) business days after Bank is notified in writing of the revocation of such authority and that receipt of such notice shall not affect any action taken by said Bank prior thereto; and

7. Further Resolved, that all transactions by any officer or employee of this Corporation on its behalf and in its name with Bank prior to the delivery to Bank of a certified copy of the forgoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and

8. Further Resolved, that the Secretary or Assistant Secretary be and hereby is, authorized and directed to certify these resolutions to said Bank and that the provisions hereof are in conformity with the Charter or Articles of Incorporation and Bylaws of this Corporation and that the Secretary or Assistant Secretary be, and hereby is, authorized and directed to certify, from time to time hereafter, the names of the holders of the

above authorized titles and their signatures on any signature card or other documentation required by said Bank.

In Witness Whereof, I have hereunto subscribed my name and affixed the seal of this Corporation, this 6th day of January, 1998.

  
Earl Daniels, City Manager

R-98-01-061

**APPOINTMENT OF COMMITTEES BY MAYOR CLARK:** Mayor Clark presented Council with the following list of Committee Appointment's:

**STREET COMMITTEE:**  
Councilman Little  
Councilman Cuthbertson

**POLICE COMMITTEE:**  
Councilman Edwards  
Councilman Martin

**FIRE COMMITTEE:**  
Councilman Little  
Councilman Edwards

**UTILITY COMMITTEE:**  
Councilman Owenby  
Councilman Martin

**RECREATION COMMITTEE:**  
Councilman Edwards  
Councilman Owenby

**CEMETERY COMMITTEE:**  
Councilman Cuthbertson  
Councilman Little

**SAFETY COMMITTEE:**  
Councilman Owenby

**TREE/BEAUTIFICATION COMMITTEE:**  
Councilman Cuthbertson

**COUNCIL ON AGING COMMITTEE:** Councilman Martin

A brief discussion followed.

Council approved these Appointments.

**MILLENNIUM COMMITTEE DISCUSSION:** The City Manager advised that letters had been sent to different organizations regarding appointment of members to the Millennium Committee. Marion, Old Fort and McDowell County governing boards to appoint three members each. One member to be appointed by MACA, MEDA, McDowell Chamber of Commerce, Old Fort Chamber of Commerce, DBA, McDowell Tourism, McDowell County School Board and McDowell Tech.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to appoint Mayor A. Everette Clark and Mr. Warren Hobbs as two of the three Millennium Committee Members.

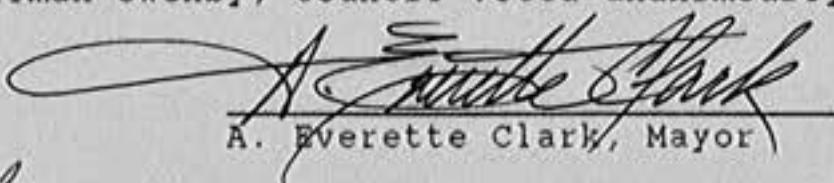
The third Committee Member will be appointed at the next Regular Scheduled City Council Meeting.

**MT. GLORY FESTIVAL - FUNDING:** Mr. Rod Birdsong appeared before Council advising that more funding is needed from the City, the County, and/or the McDowell Tourism, or a combination of the three, or the McDowell County Chamber of Commerce would not be able to continue to host the Mt. Glory Festival.

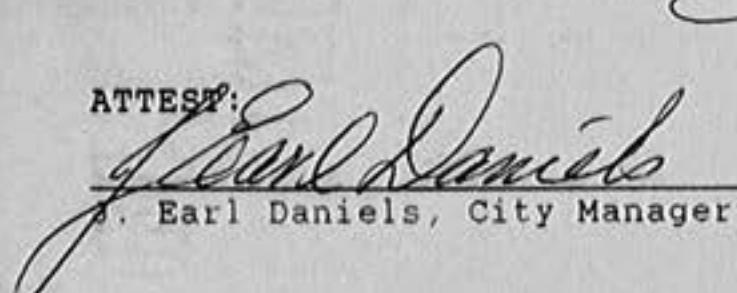
A discussion followed.

It was decided by Council to discuss this matter at this years Planning Session.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
Earl Daniels, City Manager

STATE OF NORTH CAROLINA  
COUNTY OF MCDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, January 20, 1998 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, and Cecil Owenby.

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

Councilman Little arrived for this meeting at 8:00 P.M.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News; Don Dillingham, News Reporter, The Independent Paper; Gail Sewell, News Reporter, WBRM Radio.

GUESTS PRESENT: Garland Franklin 234 Spring Street Marion, N.C. 28752; Ken Suttles 16 South Main Street, Marion, N.C. 28752.

HIGHLAND DRIVE - PARKING COMPLAINT - MR. MIKE CONNOR - STREET COMMITTEE REPORT: The City Manager presented a Memo from Police Chief Tom Pruett regarding a parking complaint on Highland Drive.

Mr. Mike Connor of 117 Highland Drive states that people are parking on the street in front of his residence and that the street is not wide enough to support on-street parking.

The City Manager advised that the Street Committee had investigated this matter and noticed that a fire hydrant is located at the edge of Mr. Connor's property. He informed Council that the Street Committee asked that he direct the Police Department to enforce State law prohibiting parking within fifteen feet of a fire hydrant. It was agreed that this should take care of the parking problem in this area.

BIDS-PURCHASE OF REFUSE COLLECTION VEHICLE: The City Manager presented Council with an Action Request Form from Mr. Dan Weeks, Purchasing Agent, requesting Council to approve the Low Bid for a Cushman Garbage Collection Vehicle.

The bids were as follows:

Carolina Industrial Equipment Inc.	\$15,500.00
Cumberland Clarklift Inc.	\$16,967.00

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to accept the low bid from Carolina Industrial Equipment Inc. in the amount of \$15,500.00 for a Cushman Refuse Collection Vehicle.

NEW STREET NAME-STATE MAINTAINED ROAD FROM NC 226: The City Manager advised that Mr. Terry Smith would like Council to name the Road leading into Designer Hardwood from N.C. 226. Mr. Smith would like this road to be named Craftsman Road.

A discussion followed.

The City Council asked that a petition be presented to Council signed by all property owners owning property fronting on this new road.

DESIGNER HARDWOOD PROJECT-REQUESTED INCREASE IN ENGINEERING FEES: The City Manager presented Council with a letter of invoice from Danny Bridges of McGill Associates requesting an increase of \$1,725.00 for additional services, bringing the total contract amount to \$12,465.00.

The additional costs were described as follows:

To expedite the project, McGill Associates have submitted two permit applications and check payments to the North Carolina Division of Water Quality (DWQ), one to cross the railroad tracks to serve the Designer Hardwoods property, and one to install a sewer line along the access road and to Scott Road. An additional fee of \$500.00 for this second DWQ application, which includes the \$400.00 permit fee. Since the railroad tracks are owned by two different railroad companies, McGill Associates was required to prepare and coordinate the approval of one additional railroad

permit application. Although there was no additional permit fee required, they did have additional costs to prepare the application and is requesting an additional fee of \$225.00 for this work.

The final item relates to the surveying costs for the project. According to Suttles Surveying, they had extreme difficulty locating the existing sewer line near the creek, partly due to inaccurate as-built drawings, and were required to make several additional field trips to complete the surveying work.

Mr. Suttles was present for this meeting. Mr. Suttles is aware that he contracted with McGill Associates and not the City of Marion, however, McGill Associates has not paid him and state that its due to the City of Marion not paying them. He has waited for payment for over a year.

A discussion followed.

The City Manager advised that McGill Associates informed him that the charges from Suttles Surveying ran approximately \$1,200.00 more than their estimated cost for the work. He stated that he informed them that the City did not contract the work and Council would have to approve a change order.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to pay the \$500.00 and the \$225.00 to McGill Associates but agreed that the City will NOT pay the \$1,000.00 billed for additional surveying costs.

**MILLENNIUM COMMITTEE-APPOINT ONE MEMBER:** Mayor Clark advised he had received several names for consideration.

Nancy Evans and Chris Rogers were the names suggested to the Mayor.

It was determined that Chris Rogers does not live in the City and that it would be more appropriate for any persons appointed by City Council to live in the City.

Mayor Clark will ask Ms. Evans if she will accept this appointment and report back to the Board at the next Regular scheduled meeting.

**FLOWERS TO FAMILY-DEATH OF FORMER BOARD MEMBER/RETired EMPLOYEE:** The City Manager advised that recently there have been a number of deaths of former Board Members and former Employees.

Elected Officials have been contributing funds for purchase of flowers and in many cases sending flowers from their families.

The City Manager asked if Council would like to establish a line item in the City Budget to cover sending flowers. He stated that the funds should come from other than tax funds.

Councilman Owenby suggested that, in lieu of flowers, a book of some type be presented to the deceased Church in their memory.

Mayor Clark suggested that a contribution of \$25.00 be made to the church or charity designated by the spouse or a family member.

Councilman Edwards suggested that we use the same rules that apply to retired employees. Under those rules the City would make a contribution to the church or charity at the death of a former employee having served the city for at least 20 years and retiring from employment from the city. A contribution would be made at the death of any former elected official.

A discussion followed.

The City Manager will report back to Council at the next Regular scheduled meeting.

**RESOLUTION-DEATH OF FORMER BOARD MEMBER/RETired EMPLOYEE:**

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to establish the following Resolution to be presented to the spouse or family of a former elected official or former retired employee meeting the requirements outlined above:

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

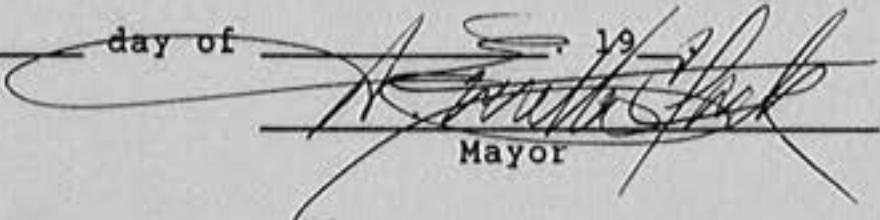
WHEREAS, during the past year death has taken from our midst \_\_\_\_\_, who served the City of Marion faithfully and well for \_\_\_\_ years: and

WHEREAS, \_\_\_\_\_ contributed materially over these years to the advancement of good municipal government in North Carolina;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the Mayor, City Council and employees of the City do hereby express their sorrow at the passing of \_\_\_\_\_, former (Mayor/Councilman or employee) of the City of Marion, who gave of his time and energy in helping to make Marion a good community in which to live, work and play.

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 \_\_\_\_\_.

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

  
Mayor

ATTEST:

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

R-98-01-20-1

Councilman Little arrived for this meeting during the discussion of Mountain Glory.

**MOUNTAIN GLORY DISCUSSION:** A discussion was held regarding the Downtown Business Association and the City of Marion endeavoring to continue with the Mountain Glory Festival if the Chamber of Commerce decides to terminate its involvement.

A discussion followed.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council instructed the City Manager to contact Freddie Killough, DBA Director, and Chuck Abernathy, County Manager, to see if they will assist the City with this event and to report back to Council.

**1998 PLANNING SESSION:** The City Manager advised that the Country Side Barbecue can not reserve their private room for the planning session. This room seats approximately seventy people.

It was decided to meet at the Country Side Barbecue at 7:00 A.M. for breakfast and then hold the business session at City Hall.

**COUNCILMAN COMMENTS:**

Councilman Little advised that the street markings on Court House Hill, which were painted over when new markings were installed, are now bleeding back through and visible to motorists. Public Works Director Glen Sherlin will contact the Department of Transportation.

Councilman Owenby advised that he is still receiving complaints regarding the Marion Mills water tank leaking in East Marion.

A discussion followed.

Councilman Owenby also advised that he had several complaints regarding the short gravel road which runs from Hunt Street to Morehead Road. Councilman Owenby was advised that this is not a city maintained street and complaints need to be referred to the Department of Transportation.

**CHRISTMAS LIGHTS:** Councilman Owenby also wanted the Public Works Director to commend City Crews on a job well done with the Christmas Lights in the City this year.

**CLOSED SESSION:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to go into Closed Session.

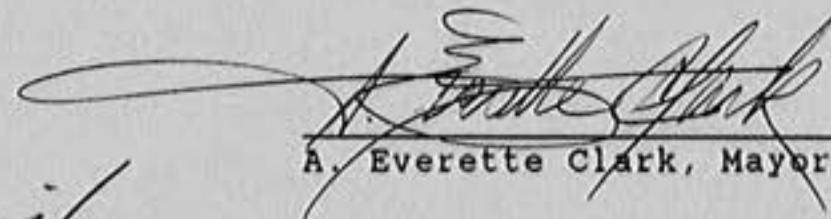
**CROSS MILLS, INC. VS. CITY OF MARION AND McDOWELL COUNTY:**

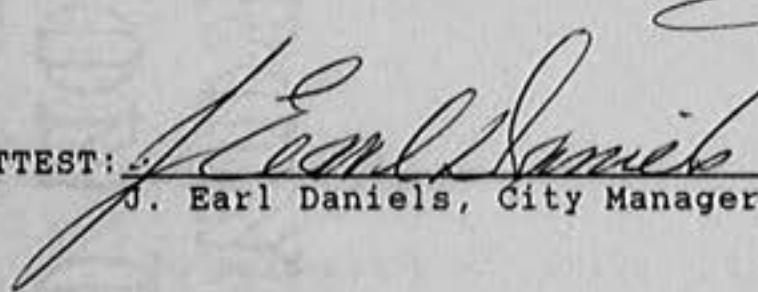
The City Manager presented a copy of a letter from Charles E. McCarthney, Jr. representing YELTON, FARFOUR, MCCARTHNEY & LUTZ, P.A., addressed to Mr. C. Randy Pool, County Attorney regarding settlement of the Taxes owed McDowell County and the City of Marion by Cross Mills, Inc. The letter stated an offer of \$200,000.00 to be divided between the City and County for back taxes owed by Cross Mills Inc. The amount is based on a

rate of valuation of 50% of the original valuation, as well as, approximately 54% of the interest which would be due at a 50% rate of valuation. A copy of this letter is located in the Tax Office. The City Manager advised the Council that the County Commissioners have agreed to this settlement. Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to return to Regular Session.

**CROSSMILL BANKRUPTCY:** Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to accept the proposal submitted by Attorney Charles E. McCartney, Jr., in the amount of \$200,000.00, plus any interest which may apply, to be divided equally between McDowell County and the City of Marion.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to adjourn.

  
A. Everette Clark, Mayor

ATTEST:   
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion held a Town Meeting on Thursday evening, January 22, 1998 at 7:00 P.M. at the Marion Community Building.

**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; Buck Byrd, Water Filter Plant Operator; Tom Milligan, Fire Chief; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Aaron Adams, Street Supt.; Steve Basney, Water Supt.; Freddie Killough, Downtown Business Association; Ragan Robinson, News Reporter, The McDowell News; Vickie Dameron, News Reporter, The McDowell Independent.

**GUESTS PRESENT:** Mr. & Mrs. Jerry Lowery, Hidden Acres Drive Marion, N.C. 28752; Tim Beam Nebo, N.C. 28761; Nancy Clark Fleming Avenue Marion, N.C. 28752; Libby Hauser 40 South Main Street Marion, N.C. 28752; Ralph Turner Tank Street, Marion N.C. 28752; Patricia Kincaid Route 5, Box 7 Marion, N.C. 28752; Fred Rumfelt 2170 Rumfelt Drive Marion N.C. 28752; Charles Williams 2040 Rumfelt Drive Marion, N.C. 28752; Harold Simmons 235 Lincoln Avenue Marion, N.C. 28752; Jack Causby 621 Miller Avenue Marion, N.C. 28752; Carroll Hall 601 6th Street Marion, N.C. 28752; Joyce Duncan 7 East Main Street Marion, N.C. 28752; Mary Rumfelt 5 East Main Street Marion, N.C. 28752; Terry Johnson Route 1, Box 564 Marion, N.C. 28752; Garland Franklin 234 Spring Street, Marion, N.C. 28752; Robert Teeter 634 Fleming Avenue Marion, N.C. 28752; Marc Perez 352 Hillside Drive Marion, N.C. 28752;

**UTILITY REPRESENTATIVES:**

**PUBLIC SERVICE COMPANY OF NORTH CAROLINA:**  
Eric Robinson  
Randy Heffner  
George Ratchford  
Bill DeBruhl  
Marc Worth  
Archie Eply

**UNITED STATES POSTAL SERVICE:**

Charles Dicks

**INTERMEDIA CABLE COMPANY**  
Wayne Ollis

**EMERGENCY MANAGEMENT SERVICES:**  
Carroll Hemphill

**DUKE POWER COMPANY:**  
Steve Swaim  
Don Hollifield

**TOWN MEETING:** Mayor Clark opened the town meeting and thanked the citizens for coming.

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

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

*Johnathan Biuins DWL*  
Mr. Tim Beam and Mr. Jerry Lowery advised that they had waited almost a year for the Marion Police Department to respond to an incident involving a fraud charge and Darryl Ford Company. They were dealing with Mr. David Hogan of Marion Police Department.

A discussion followed.

Chief Pruett advised that he would investigate this matter and contact Mr. Beam the following day.

Ms. Patricia Kincaid of California Avenue advised that she still has concerns for the Citizens of West Marion when walking and would like to see a sidewalk installed.

Ms. Kincaid also had several questions regarding Natural Gas. Mr. Eric Robinson of NCPS responded to her questions.

Ms. Nancy Clark advised that she had concerns with some of the playground equipment in the park of the Marion Community Building and would like to see steps placed, going up to the merry-go-round. There is also a problem with water standing in the play ground.

The City Manager instructed Public Works Director Glen Sherlin to investigate the park grounds.

Ms. Carol Hall of 6th Street in East Marion want to commend the City of Marion for the work that has been done in the East Marion Community.

Ms. Mary Rumfelt of Clinchfield had questions for Mr. Wayne Ollis of Intermedia.

Ms. Rumfelt also advised that they were still having problems in the Clinchfield area with animal control and that there is still a need for fire hydrants in this area.

Mr. Ralph Turner advised that he would like the Marion Police Department to be more visible in the Clinchfield area.

Mr. Marc Perez of Hillside Drive asked about controlling Kudzu. Mr. Aaron Adams advised that the City uses Round-up and that it takes about three applications to kill the Kudzu.

Councilman Little directed a question to Mr. Tony Moore of the Department of Transportation in regards to the traffic lights at the intersection of North Main and Hwy. 70 West.

A discussion followed.

Councilman Edwards directed a question to NCPS in regards to when the natural gas line would be run toward West Court Street.

Mr. Heffner advised that Montevista Avenue was next on the list followed by Forest Heights, then West Court Street weather permitting.

Councilman Owenby directed a question to Mr. Charles Dicks of the Marion Post Office regarding the lighting in front of the Marion Post Office.

Mr. Dicks advised that the light fixtures in front of the Post Office are old and can not be taken apart to replace the light bulbs. He announced that any ideals or suggestions would be appreciated.

Ms. Nancy Clark advised that a rail needs to placed in front of the Post Office as well.

Mayor Clark thanked all the Utility Representatives and the General Public for attending this meeting.

There being no further business, the meeting was adjourned.

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

ATTEST

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

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 3, 1998 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.

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Chief of Police; Don Dillingham, News Reporter, The Independent News; Gail Sewell, WBRM Radio.

GUESTS PRESENT: Mr. & Mrs. Bill Smith 107 Dogwood Lane, Marion, N.C. 28752; Kim Smith 107 Dogwood Lane, Marion, N.C. 28752; Bill Kehler P.O. Box 237 Marion, N.C. 28752; Allen Gurley 112 Holly Hill Drive Marion, N.C. 28752.

CITIZEN OF THE MONTH: Councilman Lloyd Cuthbertson selected Mr. William "Bill" Smith for the Citizen of the Month for February.

WILLIAM RAY "BILL" SMITH III.

Mr. Smith was born in Rutherfordton, and is the son of the late W. Ray and Evelyn Smith. He is married to Loretta Morrison Smith and they have two children, Ray Smith of Wingate and Kim Smith of Marion. They also have one granddaughter, Delaney.

After graduating from Marion High School, Mr. Smith attended N.C. State University for two years before enlisting in the U.S. Army and serving in Korean War.

He then received a bachelor of science degree in business administration. In 1995 he retired from his family business, Smith Furniture.

In 1972, he was elected president of the Southern Home Furnishing Association and he continues to serve on the association's advisory board.

Mr. Smith has been a volunteer fireman for more than twenty-three years, and is presently safety officer to the Marion Fire Department. In 1997 he was recognized as Fireman of the year.

Mr. Smith has worked with the Boy Scouts, has been active in the DBA and belongs to the Marion Rotary Club.

"Bill Smith is an asset to the community and is committed to serving his fellowman," said Councilman Cuthbertson.

Mayor Clark presented Mr. Smith with a Certificate of Appreciation.

BILL KEHLER - REQUEST FOR SEWER TAP: Mr. Bill Kehler and Mr. Allen Gurley came before the Board requesting permission to tap the proposed Hampton Inn to the City's Sewer System. The connection would be made into the force main.

The property is located one tenth of a mile from the McDowell Industrial Park.

City Manager Earl Daniels advised that a policy is being drafted requiring a petition for annexation, either by satellite or contiguity, prior to the city providing sewer service to properties outside the city limits. The petition would have to be signed by all persons having any interest in the property. In addition, a legal document would need be signed requiring any new owners of the property to agree to annexation at a time to be determined by the City Council. The City Manager informed Mr. Kehler that the property under discussion is not proposed for annexation, at this time, but would probably be proposed for annexation when the Industrial Park is annexed in approximately seven years.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to grant Mr. Kehler's request to connect the proposed Hampton Inn to the City Sewer System, contingent upon signing a petition requesting annexation and a legal document prepared by the City Attorney requiring any new owners of the property to agree to annexation at such time as required by the City Council. It was also agreed that the property, under consideration, not be annexed until the Industrial Park is annexed.

DOMINO'S PIZZA - GREASE TRAP ORDINANCE: The City Manager advised that he had been approached by the owners of Domino's Pizza requesting that they be exempt from having to install a Grease Separator since they only bake and have very little grease.

The owners were not present for this meeting.

A discussion followed.

Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted unanimously to table this request contingent upon the owners coming before Council with their request.

REQUEST TO WAIVE LATE FEES - RAFAEL & LISSETTE RUIZ: The City Manager presented Council with a memo from Ms. Claudia Hill advising that the water service at 123 North Logan Street, in the name of Rafael & Lissette Ruiz, was turned off January 27, 1998 for nonpayment.

Mr. Ruiz came in that day to check on the status of his account and was informed that the water was off for nonpayment.

Mr. Ruiz advised that a check had been mailed January 12, 1998. Mrs. Ruiz called and advised that the check for the City of Marion had not cleared the bank.

Mrs. Ruiz also advised that she had not received her second notice in the mail, or she would have contacted the City then.

This account has had one late payment and has never been cut off for non-payment prior to this date.

Mrs. Ruiz is requesting that the \$20.00 in late fees be adjusted off her January bill.

A discussion followed.

Council agreed that if the City receives the letter with the proper post mark or if Mr. or Mrs. Ruiz receive the letter by return mail and present it unopened and with the proper post mark, the city will refund or give credit for the twenty dollars in late fees.

DEATH OF FORMER BOARD MEMBER/RETIRED EMPLOYEE-POLICY: Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to approve the following Policy:

CITY OF MARION, NORTH CAROLINA

POLICY ON FLOWERS FOR FUNERALS

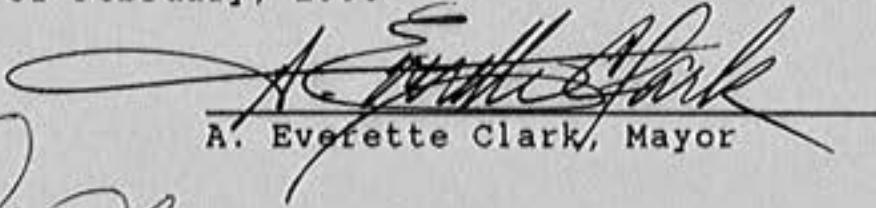
It shall be the policy of the City of Marion, to send flowers for the funeral of City elected officials and City employees.

In addition, flowers will be sent for the funeral of former City elected officials and former City employees having served at least 20 years and retiring from employment from the City.

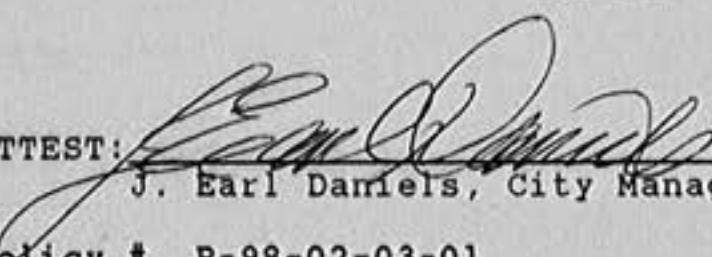
The Mayor shall be authorized to send flowers, on behalf of the City, for funerals of other individuals such as State and County Officials or other dignitaries or former long time employees.

Payment for flowers shall be made from the Water and Sewer Fund.

Adopted this the 3rd day of February, 1998

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

Policy # P-98-02-03-01

MILLENNIUM COMMITTEE - APPOINT ONE MEMBER: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to appoint Ms. Nancy Evans to the Millennium Committee.

GRIEVANCE COMMITTEE - APPOINT CHAIRMAN: The City Manager advised that the appointment of a Chairman to the Grievance Committee was inadvertently left

out when Mayor Clark made the appointments to various Committee's at the January 6, 1998 City Council Meeting.

Mayor Clark appointed Councilman Steve Little to the Grievance Committee.

**PLANNING BOARD-RE-APPOINT ONE MEMBER-FRED MOODY:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to re-appoint Mr. Fred Moody to the City of Marion Planing Board, said term to expire January 31, 2001.

**DAMAGE TO VEHICLE- REQUEST:** The City Manager presented Council with a Police Report advising that Mr. Winston Webster of Cannon Road in Nebo was traveling on South Garden Street when a man hole cover flipped up causing damage to his vehicle.

Two estimates was presented to Council as follows:

Precision Auto Body \$611.57  
Eddie's Body Shop \$696.36

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to accept the lowest estimate from Precision Auto Body in the amount of \$611.57.

**RUBY POTEAT-REQUEST FOR REIMBURSEMENT FOR WATER TAP:** The City Manager advised that Ms. Ruby Poteat of 141 Valley Street had paid \$610.00 on December 18, 1997 for a water tap fee and water deposit.

Since that date Ms. Poteat had decided not to tap on to the City Water System and requested her money be reimbursed to her.

Mayor Clark authorized reimbursement in full.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to ratify this action made by Mayor Clark.

**MOUNTAIN GLORY FESTIVAL:** The City Manager advised that at the McDowell Chamber of Commerce's Regular meeting on Wednesday, January 28, 1998, the Board of Directors of the Chamber made a decision to terminate the Chamber's management of the Mountain Glory Festival.

A discussion followed.

It was agreed that the City of Marion would work with the DBA in organizing the Mountain Glory Festival and that help would be requested from the County.

It was decided to contact the County and request that they make a contribution to the Mountain Glory Festival and that there be three honorary Chairpersons, consisting of the Chairman of the County Commissioners, President of the DBA and the Mayor of the City of Marion.

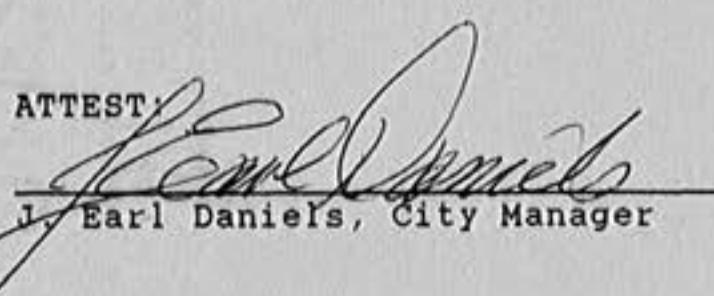
**LANDIS ROAD-BILLING INSTRUCTIONS:** The City Manager advised that City Crews have made twenty-two water taps to residents of the Landis Loop area and that thirteen property owners are still not using the water.

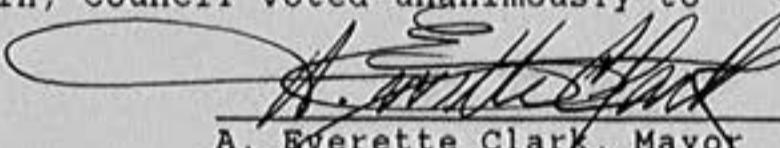
A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to charge the minimum monthly rate for water service to these residents beginning March 1, 1998.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to adjourn.

ATTEST:

  
J. Earl Daniels, City Manager

  
A. Everette Clark, Mayor

DOL  
**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 17, 1998 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 and Billy Martin.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Glen Sherlin, Public Works Director; Freddie Killough, DBA; Don Dillingham, News Reporter, The Independent News; Ragan Robinson, News Reporter; The McDowell News; Gail Sewell, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Ed Rolen, MAP Inc.; Travis Ringo, IPDC; Garland Franklin 234 Spring Street Marion N.C., 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 22, 1998 Town Meeting and the minutes of the February 3, 1998 City Council Meeting.

Councilman Cecil Owenby was not present for this meeting due to being in the hospital.

Councilman Steve Little arrived for this meeting at 7:35 PM due to his daughter being in a program at school.

Councilman Mike Edwards arrived for this meeting at 7:10 PM. The Meeting could not begin until this time due to not having a quorum.

**PUBLIC HEARING - CDBG SCATTERED SITE:** The City Manager advised that Isothermal Development Commission administers this program and failed to remind him of this Public Hearing in time to place it on the Agenda. However, it was advertised in the McDowell News and Mr. Travis Ringo was present for the meeting to discuss the specifics.

The City Manager opened the Public Hearing.

Mr. Travis Ringo advised that Isothermal would like to request authorization to amend the Marion CDBG Scattered Site Application. Specifically, they would like to demolish the following home and purchase a manufactured home as a replacement.

**UNIT # 13**

Beneficiary: Mary Alder Carson  
 427 Hudgins Avenue  
 Marion, NC 28752

Sq. footage: 840 sq. feet  
 Low income household

Tax Value: \$18,350 home and land

Cost estimate to rehabilitate home: \$38,142.00

Costs to construct a new home: \$54,600 @ \$60.00 sq. ft.

Costs to clear lot and replace \$32,000.00 with 14' X 70' mobile home:

There is a 16% savings over rehab to clear and replace with mobile home.

There is a 46% savings over new construction to clear and replace with mobile home.

A discussion followed.

There was no one present to speak against this request.

The City Manager closed the Public Hearing.

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

**POLICY - PROVIDING SEWER SERVICE OUTSIDE CITY LIMITS:**

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, *those* *member* of Council present voted to approve the following Policy.

**CITY OF MARION, NORTH CAROLINA**

**POLICY ON PROVIDING SEWER SERVICE  
 TO PROPERTIES OUTSIDE THE CITY LIMITS**

It shall be the policy of the City of Marion, upon approval by the City Council, to provide sewer service to properties outside the City Limits which appear to be eligible for future annexation, upon receipt of a petition for annexation signed by all persons having any interest in the property to be served by the City Sewer System, said annexation to occur at such time as deemed necessary and feasible by, the Marion City Council.

In addition, a legal document shall be executed by the persons requesting service and recorded to insure that, should the property be sold prior to said annexation, the new owner(s) shall be obligated to sign a new petition requesting annexation of the property. Said annexation to occur at such time as deemed necessary by the Marion City Council.

Adopted this the 17<sup>th</sup> day February 1998.

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

ATTEST

J. Earl Daniels, City Manager/Clerk

P-98-02-17-1

Councilman Little arrived during this discussion and participated in the vote.

Below is the agreement prepared by City Attorney to be used with the above Policy.

CITY OF MARION  
AGREEMENT

STATE OF NORTH CAROLINA

REQUEST AND AGREEMENT

COUNTY OF McDOWELL

\_\_\_\_\_, the undersigned, do(es) hereby represent that (he or she) (they are) the fee simple owner(s) of the tract or parcel of property described below:

Street Address:

Deed Book and Page:

Tax Identification Number:

The undersigned owner(s) hereby request(s) that the City of Marion provide sewer service to the tract or parcel of land described above as soon as it is practical and feasible to do so, in the judgment and discretion of the Marion City Council.

The undersigned acknowledge(s) that the City has no obligation to provide such sewer service because the subject property is not located within the city limits of Marion. As consideration for sewer service to this property, the undersigned further agree(s), upon request by the City of Marion, to promptly execute or join in a valid petition to annex the property referred to above into the City. This agreement shall run with the land and shall be binding upon any and all future owners of the subject property.

(Seal)

(Seal)

(Seal)

STATE OF NORTH CAROLINA

COUNTY OF McDOWELL

I, \_\_\_\_\_, a notary public for the County and State aforesaid, certify that \_\_\_\_\_ appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and seal this \_\_\_\_\_ day of February 1998.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA

COUNTY OF McDOWELL

I, \_\_\_\_\_ a notary public for the County and State aforesaid, do hereby certify that J. EARL DANIELS, personally came before me this day and acknowledged that he/she is Clerk to the Council of the CITY OF MARION, North Carolina, a municipal Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by him as Clerk to the Council.

IN WITNESS WHEREOF, I have hereunto set my hand notarial seal, this the \_\_\_\_\_ day of February, 1998.

Notary Public

My Commission Expires:

The foregoing certificate(s) of \_\_\_\_\_

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

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

REGISTER OF DEEDS FOR McDOWELL COUNTY  
Deputy/Assistant-Register of Deeds.

**MOUNTAIN GLORY FESTIVAL-AGREEMENT-CHECKING ACCOUNT:** Upon a motion by councilman Edwards, seconded by Councilman Little, those members of Council present voted to approve the following policy:

## MOUNTAIN GLORY FESTIVAL CHECKING ACCOUNT POLICY

The Marion Downtown Business Association will establish an independent checking account for "Mountain Glory Festival". This account will be at NationsBank.

The account will be opened with \$1,000.00 from the Downtown Business Association to be repaid by the end of 1998 from the proceeds of Mountain Glory Festival.

All checks for the festival will be made payable to: Mountain Glory Festival.

Four signatures will be on the signature cards: the festival co-chairperson, a festival committee member and an officer of the DEA. Checks will require signatures from any two of the four.

All funds collected are to be used for the expenses of the festival, excluding salaries. If at any time \$10,000.00 is accrued in the account beyond funds needed for the festival, an evaluation by the MGF chairpersons, representatives of the DBA and the City of Marion will determine how the funds will be invested or used.

MGF Co-chairman

MGF Co-chairman

Date

Date

P-98-02-17-2

**DBA-REQUEST FOR FUNDS-DOWNTOWN STUDY:** The City Manager presented Council with a memo from Ms. Freddie Killough, DBA Director requesting \$1,000.00 to pay one half the cost to have a Resource Team to come to Marion to evaluate the downtown business district.

The Team would be requested to look at economic development and design. In economic development, they will look at the mix of businesses, available business spaces, and make recommendations to improve the economics of the downtown. In design, they will look at the physical improvements that can improve parking, traffic flow, streetscapes, points of entry, and some building improvements.

The DBA Board sees this as an opportunity for renewed vision. The organization is in its 13th year and wants to remain strong and viable. It is important that this be a combined effort of the DBA and the City of Marion for it to be successful.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request in the amount of \$1,000.00.

**EQUIPMENT BIDS - AERIAL TRUCK & DUMP TRUCK:** The City Manager presented Council with an action request form from Purchasing Agent Dan Weeks with the following bids:

(1) Aerial Truck

Altec Industries -  
\$55,905.00 ... w/auto transmission option-na

B & J Chevrolet -  
\$49,130.00 ... w/auto transmission option \$49,925.00

Map Enterprises -  
\$54,433.00 ... w/auto transmission option \$55,653.00

The staff requested approval to issue a purchase order to B&J Chevrolet for one (1) Aerial Truck. Total price w/auto transmission option + \$49,925.00.

A discussion followed.

Mr. Ed Roland, representative of Map Enterprises was present for this meeting and advised that he did not feel that the low bidder met the specifications requested. He informed Council that the aerial unit proposed may be too large for the size truck bid.

A discussion followed.

Councilman Little made a motion to accept the low bid of \$49,130.00 from B & J Chevrolet.

There being no second, the motion died.

Upon a motion by Councilman Little, seconded by Councilman Edwards, those members of Council present voted to table acceptance of the low bid, pending further investigation into specifications and needs of the City.

(1) Flat Bed Dump Truck

Everett Chevrolet - \$34,375.00

Western Carolina Freightliner - \$37,007.00

Both bids met required specifications and the staff recommended the bid from Everett Chevrolet be accepted.

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to accept the low bid of Everett Chevrolet in the amount of \$34,375.00 for one flat bed dump truck.

**MARION POLICE DEPARTMENT- BOWLING TOURNAMENT:** The City Manager presented Council with a memo from Police Chief Tom Pruitt requesting approval for the Marion Police Department to sponsor a bowling tournament in May.

Each year law enforcement across the state supports the N.C. Special Olympics. This involves raising funds to benefit Special Olympics.

A discussion followed.

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

**GRIEVANCE COMMITTEE - APPOINTMENT/ APPROVAL BY COUNCIL:** Mayor Clark appointed the following persons to the Grievance Committee:

Administration Libb Whiteside  
Fire Department Charles Presnell  
Police Department - Rick Gutierrez  
Public Works - Marilyn Jackson  
Purchasing Department - Robert Mann

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the persons appointed by Mayor Clark.

**UNPAID REAL PROPERTY TAXES:** The City Manager presented Council with a memo from Ms. Claudia Hill, Tax Collector, advising that as stated in General Statute 105-369(a), the Tax Collector must report to the governing board the total unpaid 1997 taxes that are liens on real property.

The total outstanding real property taxes for 1997 as of February 12, 1998 is \$87,693.01.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to accept the report presented by the Tax Collector.

**PARKS AND RECREATION:** The City Manager advised that several pieces of property, one in West Marion and one in Clinchfield, have been located that could serve as Community Parks.

A discussion followed.

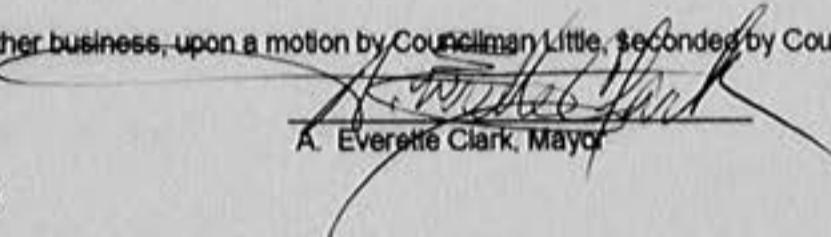
It was decided to refer this item to the Recreation Committee. Councilman Edwards and Councilman Owenby serve on the Recreation Committee.

**COUNCILMEN COMMENTS:** Councilman Edwards advised that he had been contacted by Mr. Elvins, who attended the Town Meeting regarding Darryl Ford, and that according to Mr. Elvins, the Chief had not been in touch with him.

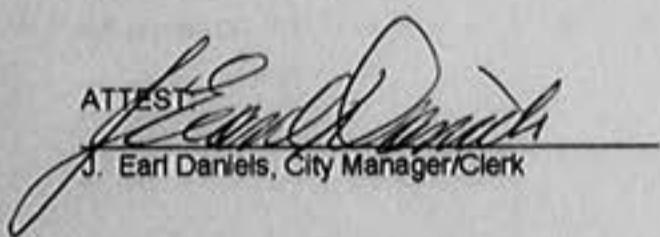
A discussion followed.

The City Manager advised that he was under the impression that Chief Pruett had taken care of this matter. The City Manager will discuss this matter with Chief Pruett.

**ADJOURNMENT:** There being no further business, upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn.

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 3, 1998 at 7:00 P.M. in the City Council Chamber located at 200 North Main Street.

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

**BOARD MEMBERS ABSENT:** Councilman Mike Edwards and Cecil Owenby were both absent from this meeting due to illness.

**OTHERS PRESENT:** J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio.

**GUESTS PRESENT:** Edna Vaughn 110 East Whilhemenia Street, Marion, N.C. 28752; Alice Little 424 South Garden Street, Marion, N.C. 28752; Mary and Sally Little, 424 South Garden Street, Marion, N.C. 28752; Brian Kelley P.O. Box 553 Marion, N.C. 28752; Scott Worthington P.O. Box 2226 Brevard, N.C. 28712; John Acker 40 Rocky Ridge Road, Pisgah Forest, N.C. 28768; Kathleen Noyes 27 New Street, Marion, N.C. 28752; David Ditt 224 View Point Drive, Marion, N.C. 28752; Warren Hobbs 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 February 17, 1998 City Council Meeting.

**CITIZEN OF THE MONTH • PRESENTATION BY COUNCILMAN LITTLE:** Councilman Steve Little selected Ms. Edna K. Vaughn for the Citizen of The Month for March.

#### EDNA K. VAUGHN

A native of Marion, Mr. Vaughn grew up singing and playing the piano in AME Zion Church. Both Ms. Vaughn's parents were Reverends in the Church. Ms. Vaughn also plays and sings for revivals, benefits, nursing homes and correctional facilities. She gives very freely of her time.

Many people in the Community depend heavily upon Ms. Vaughn for work in their households.

Mayor Clark commended Ms. Vaughn by stating that it was people like her who made Marion great.

Members of Council, as well as many others, also had kind words to say about Ms. Vaughn.

Ms. Vaughn thanked the Marion City Council for her award and stated that she hoped that their act of kindness to her would be returned to them in many ways.

**GREASE SEPARATOR REQUIREMENT • DOMINO'S:** Mr. Scott Worthington and Mr. John Acker, both representatives of Domino's Pizza appeared before Council requesting that Council not require them to have a Grease Separator because they only bake and there is little to no grease. They also advised that

they only deliver and have no seating for customers.

A discussion followed.

Upon a motion by Councilman Little, seconded by Councilman Martin, those members of Council present voted to grant this variance not requiring Domino's Pizza to install a Grease Separator and to also amend the Ordinance allowing Council to grant these type of requests.

Mayor Clark advised that Councilman Cecil Owenby had called him and wanted the minutes to reflect that he was not in favor of granting this variance.

**DRAINAGE PROBLEM • KINCAID PROPERTY • CHURCH & SHORT STREETS:** The City Manager advised that Ms. Kincaid had contacted the City regarding a drainage problem on her property located on Church Street in Clinchfield.

A discussion followed.

Council agreed that the City would need to stay within its current policy restricting work to rights of ways and not to work on private property.

There is work scheduled to be done on the right of way in this area in the near future. This work may help with the drainage problem.

Council agreed City Personnel may advise the resident regarding a private solution to the problem.

**LICENSE TO OPERATE PLACE OF AMUSEMENT • CUE & CUSHION:** The City Manager presented Council with a request from Mr. Scott Riley asking permission for a license to operate a place of Amusement located at 334 East Court Street. The present owner Mr. Bart Griffin is selling the Cue & Cushion to Mr. Riley in March or April.

Police Chief Tom Pruett has already approved this request.

A brief discussion followed.

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

**TAX REFUND • WILLIAM & MARY COOK:** The City Manager presented Council with a memo from Tax Collector Claudia Hill requesting that Mr. & Mrs. William Cook, who reside at 537 Columbia Avenue, be refunded \$110.00 for taxes paid in error for 1997. This error was due to not receiving their Senior Citizen Exemption for 1997. Their exemption for 1998 has been corrected.

The McDowell County Tax Department confirmed this information.

This amount is based on \$20,000.00 @ 0.55 per \$100.00 valuation.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve this request in the amount stated above.

**RETIRED EMPLOYEES • DENTAL INSURANCE:** The City Manager advised that it had been requested that Retired City Employees be allowed to continue their Dental Insurance upon retirement at no cost to the City.

A brief discussion followed.

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

**RESOLUTION • AREA UNDER CONSIDERATION FOR ANNEXATION:** Upon a motion by Councilman Martin, seconded by Councilman Little, those members of Council present voted to adopt the following Resolution:

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

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

SECTION 1. That pursuant to G.S. 160A-37 (1), the following described areas are hereby identified as being under consideration for future annexation by the City of Marion under the provisions of Part 2, Article 4A of Chapter 160A of the General Statutes of North Carolina.

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

This RESOLUTION OF CONSIDERATION will include these described areas which are continuous to the City Limits of the City of Marion on this the 3rd day of March, 1998.

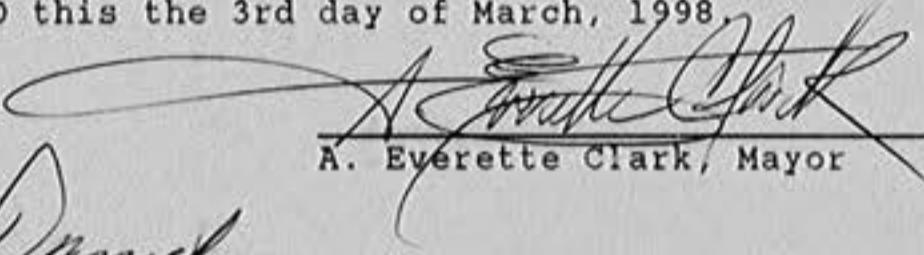
Areas under consideration will include all properties which are either contiguous to, have access to, or are in development which are directly connected to the streets listed as boundaries. This is to be understood unless otherwise stated. This description will include all properties which lie between these listed boundaries and the area currently under consideration as noted above.

DESCRIPTION OF AREA UNDER CONSIDERATION

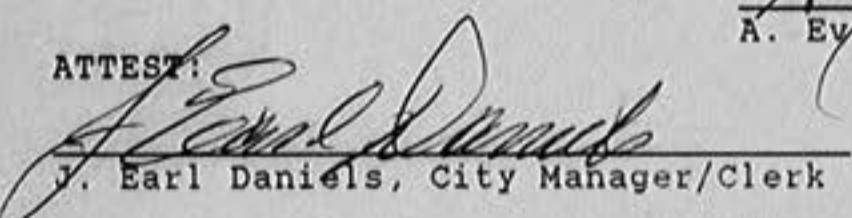
BEGINNING at a point located at the intersection of U.S. Highway 70 East and the center of the bridge over Southern Railway. Thence in a straight line, traveling in a SOUTHERLY direction, to the center of the bridge at the intersection of Fairview Road (SR 1741) and Interstate 40. Thence in a straight line, in a southerly direction, to a point 2600 feet south of Interstate 40 located on N.C. Highway 226 South. Thence following a line 2600 feet south of and parallel to Interstate 40 in a westerly direction, to a point where said line intersects with Marler Road ((SR 1257)). Thence following Marler Road (SR 1257) in a northerly direction to its intersection with Zion Hill Road (SR 1137). Thence following in a straight line, in a northerly direction, to a point on Interstate 40 located 1300 feet west of Nix Creek Road (SR 1911). Thence following a line 1300 feet west of and parallel to Nix Creek Road (SR 1191) in a northwesterly direction to a point located 650 feet west the end of Waycaster Road (SR 1319). Thence in a straight line in a northerly direction to a point located 650 feet west of the end of Clear Creek Road (SR 1422), thence following a line 650 feet north of and parallel to Clear Creek Road (SR 1422) in an easterly direction to a point located 650 feet west of Lake Tahoma Road (N.C. Highway 80). Then following a line 650 feet west of and parallel to Lake Tahoma Road (N.C. Highway 80) to a point 650 feet west of the intersection of Lake Tahoma Road (N.C. Highway 80) and Toms Creek Road (SR 1434). Thence following a line 650 feet west of and parallel to Tom Creek Road (SR 1434) in a northerly and easterly direction to a point located on U.S. 221 North 650 feet north of the intersection of U.S. 221 North to Toms Creek Road (SR 1434). Thence in a straight line in an easterly direction to the intersection of Cannon Road (SR 1553) and CSXT Railroad. Then in a straight line in a southeasterly direction to the intersection of Hankins Road (SR 1501) and Yancey Road (SR 1504). Thence in a straight line in a southeasterly direction to the point of BEGINNING.

Section 2. That a copy of this Resolution shall be filed with the Marion City Council.

ADOPTED this the 3rd day of March, 1998

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**BIDS - AREIAL TRUCK:** The City Manager advised that the Public Works Department is recommending that the bids, for the aerial truck, presented to Council at the February 17, 1998 meeting be rejected and that new specifications be prepared for new bid proposals.

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

**BIDS-RIGHT OF WAY MOWING CONTRACT:** The following bids for the right of way mowing contract were presented to Council.

Kelly's Landscaping & Lawn Care = \$1090.00 per week

Harold's Lawn Service = \$1550.00 per week

McClure's Nursery & Landscaping = \$2250.00 per week

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to accept the low bid from Kelly's Landscaping & Lawn Care in the amount of \$1090.00.

**BIDS CEMETERY MOWING CONTRACT:** The following bids for the cemetery mowing contract were presented to Council:

Kelly's Landscaping & Lawn Care = \$824.00 per week

McClure's Nursery & Landscaping = \$950.00 per week

Hollifield's Landscaping - \$1020.00 per week

Harold's Lawn Service = \$1050.00

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to accept the low bid from Kelly's Landscaping & Lawn Care in the amount \$824.00 per week.

---

**BIDS-LANDSCAPING CONTRACT:** The following bids were received for the Landscaping Service:

Hollifield's Landscaping = \$104.30 per week

L. L. Moore's Landscaping = \$348.50 per week

Harold's Lawn Service = \$715.50 per week

The City Manager advised that Mr. Hollifield contacted him requesting that his bid be withdrawn because he was under the impression that this original bid could be renegotiated during the contract period.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to accept the next lowest bid of L.L. Moore's Landscaping in the amount of \$348.50 per week.

**CENSUS BUREAU • REQUEST FREE/LOW COST SPACE FOR CENSUS FIELD OFFICE:** The City Manager presented Council with a letter from Ms. Susan Hardy of the United States Department of Commerce • Bureau of the Census. The letter requested the Marion City Council locate property that could be used by their office for approximately five months.

The City Manager advised that the only property the City had that would be large enough for this type of office would be the basement of the Community Building, but there is not sufficient parking space.

A discussion followed.

Council instructed the City Manager to have Ms. Hardy write to the County Manager regarding this request.

**RESOLUTION • SUPPORT PARTICIPATION • 1999 SPECIAL OLYMPICS WORLD SUMMER GAMES:** The City Manager presented Council with information requesting the City of Marion to participate in the Host Town Program, of the 1999 Special Olympics World Summer Games.

The basic objectives of the Host Town Program would be as follows:

To promote public awareness about Special Olympics and seek increased public involvement

To offer opportunities for athletes and coaches to meet with North Carolinians and experience our hospitality, Providing a cultural exchange that would enrich the lives of everyone involved

To provide the international delegations time for rest and adjustment to North Carolina's summer heat and the opportunity to practice their sport prior to the World Games

To give delegations a host community to join them at the '99 games and to cheer them on to victory

A discussion followed.

City Council supports the 1999 Special Olympic Games, however, being such a small community with a small city staff these objectives cannot be met as the objectives outlined for the Host Town Program.

The City Manager was instructed to write a letter to advise.

**TRUCK PARKING • DISCUSSION:** The City Manager presented Council with two draft ordinances for their review and consideration regarding a problem

being experienced with an eighteen wheeler that seems to be parking at several locations near the downtown area.

The Ordinance s were presented as follows:

Sec. 18-262.1 Obedience to designated spaces on street or City owned parking lots

No single vehicle or combination of hitched vehicles shall park in such a manner as to occupy more than one designated parking space at a time nor extend beyond the painted lines of the designated space, except travel trailers and/or recreational vehicles may park not to exceed one hour.

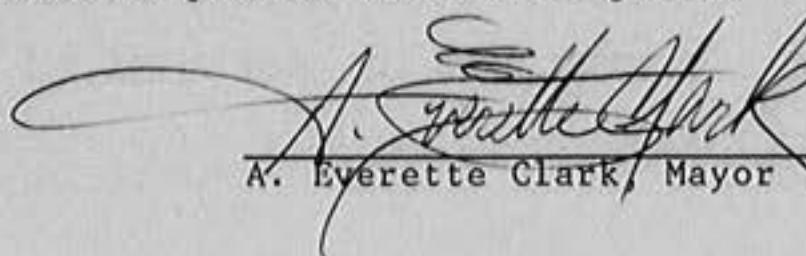
Sec. 18-230.1 on Street Parking of Commercial Vehicles Prohibited

It shall be unlawful to park a commercial vehicle, either as a single vehicle or as a combination of hitched vehicles, on any public street in the City of Marion except for the purpose of expeditious loading and delivery, or pickup and loading materials and goods, and then only for a period not to exceed one hour.

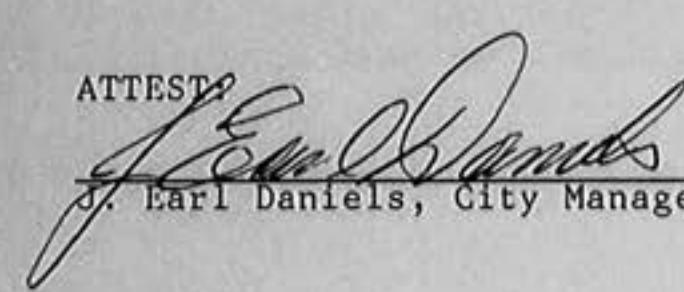
A discussion followed.

It was decided for the City Manager to bring this item back to Council at a later date.

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

  
A. Everette Clark, Mayor

ATTEST,

  
J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 17, 1998 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, Police Chief; Glen Sherlin, Public Works Director; Caroline Moore, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Junior Reid 921 Circle Street Marion, N.C. 28752; Tom McComb Marion, N.C. 28752; Ken Phillips, MPD; Michael Shelton, MPD; Fred Kohls, MPD; Virgil Varrone, MPD; Richard Hinson, MPD; Johnny Patton, MPD; Brenda Williams, MPD; and Debbie Patton, Marion, N.C. 28752; Mr. & Mrs. Jay Suttles, Marion, N.C. 28752; Mr. Jonathan Arrowood, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to approve the minutes of the February 17, 1998 City Council Meeting.

SPECIAL PRESENTATION-MARION POLICE DEPARTMENT: Chief Tom Pruett advised that Sgt. Mike Shelton has retired from the Marion Police Department due to an off job injury.

Refreshments were served and a plaque was presented to Mr. Shelton. The plaque read as follows:

In appreciation to Sgt. Mike Shelton for ten years of dedicated service to the Citizens of the City of Marion by the Marion Police Department.

INTRODUCTION • NEW BUILDING INSPECTOR: The City Manager introduced Mr. Jay Suttles as the City of Marion's new Building Inspector. Mr. Suttles wife Michelle was also introduced.

INTRODUCTION • MENTOR PROGRAM - STUDENT FROM McDOWELL HIGH: The City Manager introduced Mr. Jonathan Arrowood. Jonathan is a senior at McDowell High School and is participating in a mentor program that places students in various businesses around the City. He will be at City Hall one hour a day for approximately four weeks.

CITIZEN COMPLAINT • CIRCLE STREET • JUNIOR REED: Mr. Junior Reid appeared before Council requesting that Council make Ms. Medford of Circle Street remove a fence she had placed on her property.

Mr. Reid advised that the street is narrow and the fence makes it difficult for residents to park on the street.

Mr. Reid was advised that Ms. Medford followed City Ordinances while placing the fence and that the City has no authority to force her to remove the fence.

PROCLAMATION • APRIL CLEAN SWEEP 1998: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Proclamation:

CITY OF MARION,  
NORTH CAROLINA

PROCLAMATION

APRIL CLEAN SWEEP 1998

WHEREAS, Marion's beautiful scenery and clean environment are a source of great pride; and

WHEREAS, the McDowell Clean County System, Inc., an affiliate of the National Keep America Beautiful Program, and P.R.I.D.E. are organizing a county wide cleanup to ensure clean neighborhoods and roadsides throughout the city and the county; and

WHEREAS, a city wide cleanup campaign has been planned for the month of April, to help educate the public about the harmful effects of litter and illegal dumping on the environment and give every resident the opportunity to take responsibility for a clean community.

NOW, THEREFORE, I do hereby PROCLAIM April 1998, as "CLEAN SWEEP" in the City of Marion and urge all citizens to participate in cleaning up our neighborhoods and roadsides, and to reduce and recycle solid waste.

  
A. Everette Clark, Mayor

REQUEST FOR LOCATION CHANGE FOR FREE SEWER TAP: The City Manager advised that Mr. & Mrs. Troy Messer were provided two free sewer connections for allowing a City sewer line to cross property they own. They have used one of the connections and would like for the second free connection to be provided at another location. The location they selected does not presently have a sewer line. The location selected is 107 Midway Street.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to approve the request.

RESOLUTION - OBJECTION TO PASSAGE OF THE INTERNET TAX FREEDOM ACT: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Resolution:

CITY OF MARION  
NORTH CAROLINA

RESOLUTION

## OBJECTING TO PASSAGE OF THE INTERNET TAX FREEDOM ACT

WHEREAS, There is concern about the effects on state and municipal governments ability to continue services to our citizens if the Internet Tax Freedom Act is passed; and

WHEREAS, There is concern about our merchants and their ability to compete competitively with mail order and Internet companies.

NOW THEREFORE BE IT RESOLVED, that the City Council for the City of Marion, North Carolina strongly opposes the Internet Tax Freedom Act and request your vote against this devastating action against the nation's cities and their local retail merchants.

ADOPTED this the 17th day of March, 1998.

ATTEST:

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

R-98-03-17-01

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

**ORDINANCE • AMENDING ORDINANCE REQUIRING GREASE TANKS:** Upon a motion by Councilman Edwards, seconded by Councilman Little, Council voted to approve the following Ordinance:

CITY OF MARION,  
NORTH CAROLINA

ORDINANCE  
AMENDING ORDINANCE NUMBER 92-09-09-01  
ENTITLED  
ORDINANCE REQUIRING GREASE TANKS

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

SECTION 1. That Ordinance number 92-09-09-01 adopted by the City Council on September 8, 1992 is hereby amended by deleting Section 5 and adding a new Section 5. and Section 6. to read as follows:

SECTION 5. The City Council shall have authority to waive the requirement for a grease tank or grease separator for bakeries or other similar establishments with carry out food only and discharging small amounts of grease to the city sewer system.

SECTION 6. This ordinance shall be in effect upon adoption.

ADOPTED this the 17th day of March, 1998.

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

ATTEST:

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

Ordinance Number: 98-03-17-01

The Vote was as follows

Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Little	Yes
Councilman Martin	Yes
Councilman Owenby	No

**TAX COLLECTOR • REQUEST TO ADVERTISE TAX LIENS ON REAL PROPERTY:** The City Manager presented a memo from Ms. Claudia Hill, Tax Collector, requesting permission to advertise City of Marion 1997 Real Property Taxes in the McDowell News, Friday, May 8, 1998.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to approve this request.

**ORDINANCE LIMITING PARKING ON LOGAN STREET:** Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to approve the following Ordinance:

CITY OF MARION  
NORTH CAROLINAORDINANCE  
AMENDING SECTION 18  
TRAFFIC SCHEDULE  
MARION CITY CODE

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

Section 1. That the Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

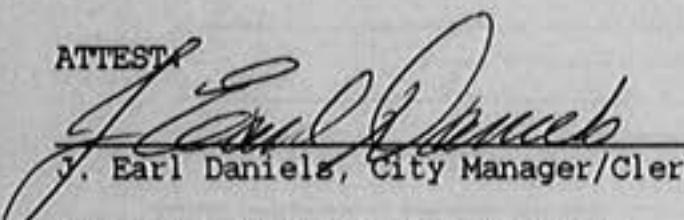
Section 2. Section 18-240 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
LOGAN STREET	2 HOUR PARKING	WEST SIDE, BEGINNING 96 FEET FROM SW CORNER OF LOGAN AND FORT STREETS CONTINUING 38 FEET SOUTHERLY.

Adopted this the 17th day of March, 1998.

  
A. Everette Clark, Mayor

ATTESTED

  
J. Earl Daniels, City Manager/Clerk

Ordinance Number: 98-03-17-02

**PETITION REQUESTING ANNEXATION:** Upon a motion by Councilman Cuthbertson, seconded by Councilman Little, Council voted unanimously to accept the petition requesting annexation as follows:

TO THE CITY COUNCIL OF THE CITY OF MARION:

1. I, THE UNDERSIGNED OWNER OF REAL PROPERTY, RESPECTFULLY REQUEST THAT THE AREA DESCRIBED IN PRAGRAPH 2 BELOW BE ANNEXED TO THE CITY OF MARION.

2. THE AREA TO BE ANNEXED IS CONTIGUOUS TO THE CITY OF MARION AND THE BOUNDARIES OF SUCH TERRITORY ARE AS FOLLOWS:

BEGINNING on an existing railroad spike in the edge of the asphalt, said point of beginning being located North 83 degrees, 12 minutes, 42 seconds East 57.02 feet from NCGS Monument, • CARRIE • Y = 711,636,969 X L.L03.545.805, NAD 83, and runs thence North 14 degrees, 52 minutes, 44 Seconds West 27.43 feet to an existing railroad spike in the Western margin of State Road No. 1168; thence, with said Western margin of State Road No. 1168 the following eight courses and distances:

South 42 degrees, 56 minutes, 22 seconds East 109.57 feet to a point;  
South 41 degrees, 55 minutes, 57 seconds East 80.04 feet to a point;  
South 40 degrees, 40 minutes, 50 seconds East 39.99 feet to a point;  
South 38 degrees, 19 minutes, 02 seconds East 13.90 feet to a point;  
South 38 degrees, 19 minutes, 02 seconds East 9.16 feet to a point;  
South 39 degrees, 09 minutes, 26 seconds East 18.79 feet to a point;  
South 36 degrees, 19 minutes, 04 seconds East 26.80 feet to a point;  
South 33 degrees, 63 minutes, 26 seconds East 14.61 to an iron pin set;

thence, leaving said margin of State Road No. 1168, an agreed upon line with Miller (See Boundary Line Agreement recorded in D.B. 553, Page 504) North 89 degrees, 35 minutes, 00 seconds West 190.52 feet to

a railroad spike set in the pavement of State Road No. 1182; thence, North 01 degrees, 48 minutes, 46 seconds West 47.22 feet to a point; North 01 degrees, 48 minutes, 46 seconds West 18.43 feet to an iron pin set; North 01 degrees, 48 minutes, 46 seconds West 10.02 feet to a point in the store building; North 85 degrees, 48 minutes, 46 seconds West 8.16 feet to an iron pin set; North 85 degrees, 48 minutes, 46 seconds West 91.91 feet to an existing iron pin in the right-of-way of State Road No. 1001; North 01 degrees, 49 minutes, 42 seconds West 93.71 feet to an existing pk nail set in the asphalt of State Road No. 1001; thence, a line in the asphalt of State Road No. 1001, North 25 degrees, 49 minutes, 24 seconds East 6.81 feet to a pk nail set; thence, leaving said asphalt, South 85 degrees, 49 minutes, 42 seconds East 96.90 feet to an existing iron pin, North 01 degrees, 51 minutes, 15 seconds West 32.02 feet to the BEGINNING, containing 0.75 acres by D.M.D.

3. I ACKNOWLEDGE THAT ANY ZONING RIGHTS ACQUIRED PURSUANT TO G.S. 160A-385.1 OR G.S. 153A-344.1 MUST BE DECLARED AND IDENTIFIED ON THIS PETITION. WE FURTHER ACKNOWLEDGE THAT FAILURE TO DECLARE SUCH RIGHTS ON THIS PETITION SHALL RESULT IN A TERMINATION OF VESTED RIGHTS PREVIOUSLY ACQUIRED TO THE PROPERTY. (IF ZONING VESTED RIGHT ARE CLAIMED, INDICATE BELOW AND ATTACH PROOF.)

NAME (PRINT) \_\_\_\_\_

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

PARCEL IDENTIFICATION NO. : \_\_\_\_\_  
DO YOU DECLARE VESTED RIGHT?  YES  NO  
(IF YES, ATTACH PROOF OF VESTED RIGHT)

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

DATE: \_\_\_\_\_

**RESOLUTION • DIRECTING THE CLERK TO INVESTIGATE PETITION:** Upon a motion by Councilman Cuthbertson, 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**

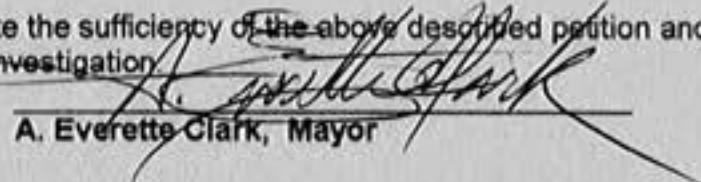
WHEREAS, a petition requesting annexation of an area described in said petition was received on Tuesday, March 17, 1998, by the Marion City Council, and

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

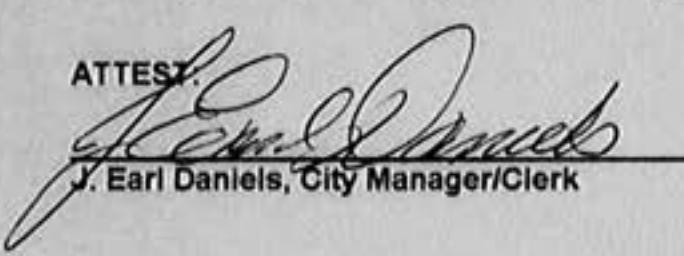
WHEREAS, the City Council of the City of Marion deems it advisable to proceed in response to this request for annexation,

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

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

  
A. Everette Clark, Mayor

ATTEST:

  
J. Earl Daniels, City Manager/Clerk

**INFORMATION • JOINT MEETING WITH COUNTY COMMISSIONERS • MARCH 19th • 6:00 P.M. • LITTLE SIENNA:** The City Manager reminded Council of the Joint meeting with County Commissioners on March 19, 1998 at the Little Sienna.

Councilman Edwards advised that it was good to have Councilman Owenby back at the meeting after his stay in the hospital. All others echoed his statement.

**DOG COMPLAINTS:** The City Manager advised that a City of Marion Animal Capture & Release Form has been drafted. He informed Council that a number of complaints have been concerning dogs running at large and destroying property. A new policy is being put in place which provides that the animal cages will be baited with food and animals caught taken to the pound. When the owner claims his animal, he must sign stating that he is the owner of the animal. The Police Department will then charge the owner for violation of the Ordinance requiring the animal to be on its owners property or under control of the owner.

REQUEST PERMISSION - PUBLIC WORKS DIRECTOR: Public Works Director, Glen Sherlin advised Council that Ms. Dolly Robinson of 7 Currier Avenue had contacted the Public Works Department concerned with two large tree stumps/trunks near the edge of the creek across from her property that is diverting the flow of water toward her property, possibly causing the embankment to erode.

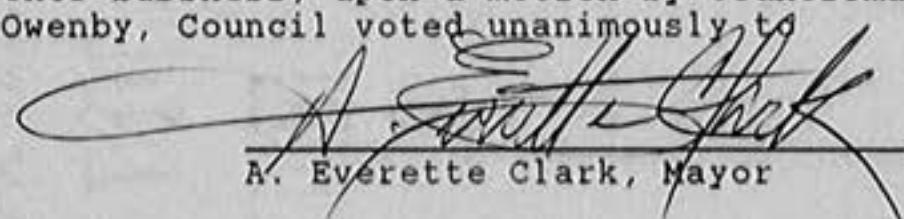
Upon investigation, it was found that there is concern that these tree trunks could become dislodged during the flow of high water causing blockage to the culverts down stream at Currier Avenue.

The Public Works Director requested permission to contact private property owners regarding City forces encroaching onto their property to remove the stumps/trunks.

A discussion followed.

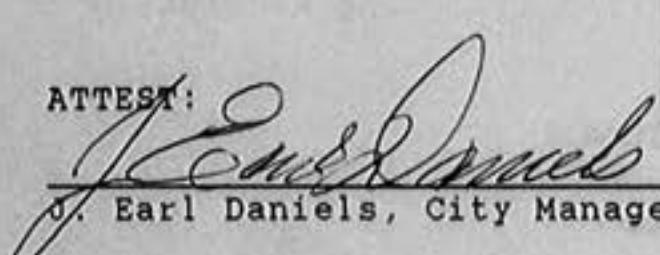
Council authorized the removal of the stumps/trunks provided permission of the property owners is obtained.

ADJOURNMENT: There being no further business, upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adjourn.



A. Everette Clark, Mayor

ATTEST:



J. Earl Daniels, City Manager/Clerk

STATE OF NORTH CAROLINA  
COUNTY OF McDOWELL  
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, April 7, 1998 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, Billy Martin and Cecil Owenby.

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

OTHERS PRESENT: J. Earl Daniels, City Manager; Debi Laughridge, Secretary; Tom Pruett, Police Chief; Glen Sherlin, Public Works Director; Ragan Robinson, News Reporter, the McDowell News.

GUESTS PRESENT: Helen Lancaster, Marion, N.C. 28752; Nancy Clark, 704 Fleming Avenue, Marion, N.C. 28752; Dave Kehler 10 Deer Park Road, Marion, N.C. 28752; Butch & Jeremy Compton 17 Gilkey Street, Marion, N.C. 28752; Pat Cook, Marion, N.C. 28752; Jack Casper 1224 State Street, Marion, N.C. 28752; Garland Franklin Spring Street, Marion, N.C. 28752.

APPROVAL OF MINUTES: Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the minutes of the March 17, 1998 City Council Meeting.

CITIZEN OF THE MONTH • PRESENTATION BY MAYOR CLARK: Mayor A. Everette Clark selected Ms. Helen Lancaster for the Citizen of the Month for April.

Helen Lancaster

Ms. Lancaster has been involved with Church and Community activities over the past fifty years. She serves as Secretary of Sunday school at Marion's First Presbyterian Church. Ms. Lancaster respects the needs of local people and responds appropriately, furnishing transportation for the needy and volunteering for the local Meals on Wheels program. She also serves on the Council on Aging and the Habitat for Humanity.

Ms. Lancaster worked for the Department of Social Services when it was called the Welfare Department. She and her late husband J.M. Lancaster started the Harvest Restaurant on North Main Street where she worked after her retirement.

BOY SCOUT TROOP REPRESENTATIVE: Mayor Clark introduced Mr. Butch Compton and his son Jeremy, who's with Boy Scout Troop 807. Jeremy was present for this meeting to earn his Communication Badge.

COUNCILMAN EDWARDS: Councilman Edwards arrived for this meeting before the discussion started on the next item.

TOWN SQUARE GRAPHICS PROJECT: Ms. Pat Cook appeared before Council requesting permission to produce a picture map of the area businesses. This project would be at no cost to the City of Marion. Each business wishing to be on the map would pay a \$195.00 fee.

The City would get 5000 copies of these maps at no cost and could sale them as a fundraiser.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to allow Ms. Cook to proceed with this project.

GREENE STREET-PETITION TO CLOSE: Mr. David Kehler appeared before Council requesting permission to close Greene Street, agreeing to bear all expenses for the closing of the Street.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to approve the request and to adopt the following Resolution of intent to close the Street.

**RESOLUTION OF MARION CITY COUNCIL  
RELATIVE TO CLOSING UNOPENED GREENE  
STREET OFF CURRIER 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 Greene Street (an unopened street) off of Currier Avenue shown, for identification and location purposes only, on a survey of property now owned by David Wayne Kehler, and wife, Christina R. Kehler, and Narendrakumar A. Patel and wife, Nisha N. Patel (said survey is attached hereto and marked exhibit A and is specifically incorporated by reference as if fully set forth herein). A metes and bounds description of the unopened street as shown on that certain unrecorded plat of survey prepared by R.L. Greene Surveying and Mapping, dated October 30, 1991 entitled Survey of Those Properties Described in Deed to William J. Kehler and wife, Teresa B. Kehler and is now owned by David Wayne Kehler and wife, Christina R. Kehler as recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_ in the Office of the McDowell County Register of Deeds is as follows:

BEGINNING on an iron pin set in the edge of the right-of-way of Currier Avenue Extension, it being the Southwest corner of Lot No. 3 of Mount Ida Estates Subdivision as shown on map recorded in Map Book 4, at Page 245, by R.L. Greene Surveying and Mapping, dated October 30, 1991, and runs thence South 5 degrees 49 minutes 30 seconds West 50.43 feet to a point in the edge of the right-of-way of Greene Street; thence running with the edge of the right-of-way of Greene Street, North 89 degrees 19 minutes 00 seconds East 71.27 feet to an existing iron pin, it being the Northwest corner of Lot No. 4 of the Mount Ida Estates Subdivision; thence running with the line of Lot No. 4 and Greene Street, North 89 degrees 19 minutes 00 seconds East 96.93 feet to an iron pipe set; thence running with the curve to the left having a delta 140 degrees 40 minutes 11 seconds, a radius of 40, a cord bearing of North 69 degrees 42 minutes 17 seconds East and a CH of 75.33 to an existing iron pin, a common corner with Lot No. 3 of Mount Ida Estates Subdivision; thence running with another curve of Greene Street and with the line of Lot No. 3, having a delta of 141 degrees 146 minutes 27 seconds, a radius of 49, a chord bearing of North 71 degrees 31 minutes 02 seconds West and a CH of 75.59 feet to an existing iron pin; thence running with the line of Lot No. 3 in the edge of the right-of-way of Greene Street, South 89 degrees 19 minutes 00 seconds West 163.04 feet to the BEGINNING, and containing 0.30 acres and being the area shown as Greene Street (unopened) on that certain map of survey by R.L. Greene Surveying and Mapping, Registered Land Surveyor, Marion, North Carolina, dated October 30, 1991, and recorded in Map Book 4, at Page 245, except for two calls which were furnished by R.L. Greene to complete the area of Greene Street.

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 Tuesday, May 20, 1998, at which hearing any persons may be heard on the question of determining whether or not the closing of said portion of said street would be detrimental to the public interest or the property rights of any individual.

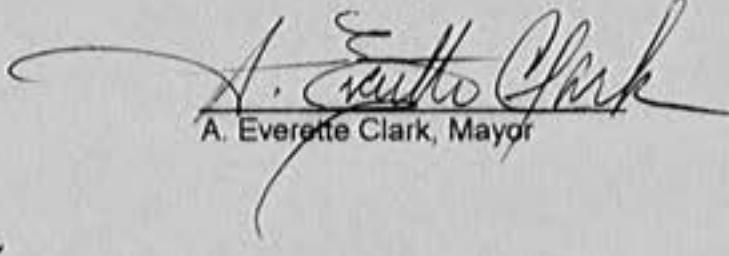
BE IT FURTHER RESOLVED that a copy of this Resolution shall be published once a week for four (4) successive weeks in The McDowell News, Marion, North Carolina, prior to the date of said public hearing, and that a copy of the same shall be sent by registered or certified mail to the following:

David Wayne Kehler and wife, Christina B. Kehler,  
10 Deer Park Resort  
Nebo, North Carolina 28761

Narendrakumar A. Patel and wife, Nisha N. Patel,  
94 Glenview Street  
Marion, North Carolina 28752

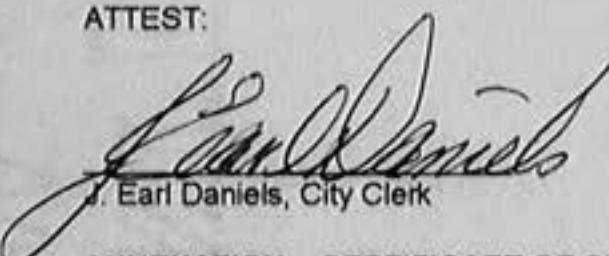
BE IT FURTHER RESOLVED that a Notice of the closing and public hearing shall be prominently posted in at least two (2) places along that portion of said street which is to be closed.

ADOPTED at a regular meeting held on April 7, 1998.



A. Everett Clark, Mayor

ATTEST:



J. Earl Daniels, City Clerk

**ANNEXATION – CERTIFICATE OF SUFFICIENCY – FORMERLY HORTON'S STORE PROPERTY:** Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to approve the following Certificate of Sufficiency:

**CERTIFICATE OF SUFFICIENCY**

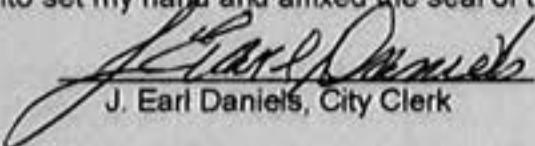
To the City Council of the City of Marion:

I, J. Earl Daniels, City Clerk, do hereby certify that I investigated the petition attached herein 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 the

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 7th day of April, 1998.

(Seal)



J. Earl Daniels, City Clerk

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON ANNEXATION:** Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution:

**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:

Section 1. A public hearing on the question of annexation of the area described herein will be held in the City Council Chamber located at 200 North Main Street on Tuesday, April 21, 1998, at 7:00 P.M.

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

BEGINNING on an existing railroad spike in the edge of the asphalt, said point of beginning being located North 83 degrees, 12 minutes, 42 seconds East 57.02 feet from NCGS Monument, "CARRIE" Y = 711,636,969 X = L.10.545.805, NAD 83, and runs thence North 14 degrees, 52 minutes, 44 seconds West 27.43 feet to an existing railroad spike in the Western margin of State Road No. 1168; thence, with said Western margin of State Road No. 1168; thence, with said Western margin of State Road No. 1168 the following eight courses and distances:

South 42 degrees, 56 minutes, 22 seconds East 109.57 feet to a point;  
South 41 degrees, 55 minutes, 57 seconds East 80.04 feet to a point;  
South 40 degrees, 40 minutes, 50 seconds East 39.99 feet to a point;  
South 38 degrees, 19 minutes, 02 seconds East 13.90 feet to a point;  
South 38 degrees, 19 minutes, 02 seconds East 9.18 feet to a point;  
South 39 degrees, 09 minutes, 26 seconds East 18.79 feet to a point;  
South 36 degrees, 19 minutes, 04 seconds East 26.80 feet to a point;  
South 33 degrees, 63 minutes, 26 seconds East 14.61 to an iron pit set;

thence, leaving said margin of State Road No. 1168, an agreed upon line with Miller (See Boundary Line Agreement recorded in D.B. 553, Page 504) North 89 degrees, 35 minutes, 00 seconds West 190.52 feet to a railroad spike set in the pavement of State Road No. 1182; thence, North 01 degrees, 48 minutes, 46 seconds West 47.22 feet to a point; North 01 degrees, 48 minutes, 46 seconds West 10.02 feet to a point in the store building; North 85 degrees, 48 minutes, 46 seconds West 8.16 feet to an iron pin set; North 85 degrees, 48 minutes, 46 seconds West 91.91 feet to an existing iron pin in the right-of-way of State Road No. 1001; North 01 degrees, 49 minutes, 42 seconds West 93.71 feet to an existing pk nail set in the asphalt of State Road No. 1001; thence, a line in the asphalt of State Road No. 1001, North 25 degrees, 49 minutes, 24 seconds East 6.81 feet to a pk nail set; thence, leaving said asphalt, South 85 degrees, 49 minutes, 42 seconds East 96.90 feet to an existing iron pin, North 01 degrees, 51 minutes, 15 seconds West 32.02 feet to the BEGINNING, containing 0.75 acres by D.M.D.

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.

ADOPTED this 7<sup>th</sup> day of April, 1998

A.  
Attest:

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

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

**P & R PRODUCE • REQUEST TO LOCATE TEMPORARY STRUCTURE OVER SEWER LINE:** The City Manager presented Council with a request from Mr. Al J. Reel, owner of P & R Produce, requesting permission to place a temporary structure (green house) over a City sewer line.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted to approve this request upon the condition that it would not be a permanent structure and that it can and will be removed if deemed necessary by the City of Marion to make sewer line repairs.

**ABC BOARD • APPOINT ONE MEMBER:** The City Manager presented Council with a letter from Mr. Robert Teeter, Chairman of the Marion Alcoholic Beverage Control Board recommending that Mr. Harvey Parker be re-appointed to another three year term on the Board.

Upon a motion by Councilman Little, seconded by Councilman Martin, Council voted unanimously to appoint Mr. Harvey Parker to another three year term on the Board. Term to end April 18, 2001.

Listed below are the ABC Board Members and their terms of office:

Robert Teeter (3) year term to end • April 18, 1999  
Doris Hill (3) year term to end • April 18, 2000  
Harvey Parker (3) year term to end • April 18, 2001

**UTILITY COMMITTEE • REQUEST FROM COUNTY TO APPOINT ONE ELECTED OFFICIAL:** The City Manager advised that the County Commissioners have requested that Council appoint one City Elected Official to serve with the City Manager and the Public Works Director on a Utility Committee.

Upon a motion by Councilman Little, seconded by Councilman Edwards, Council voted unanimously to appoint Mayor Clark to serve on this Committee.

**BIDS • AERIAL BUCKET TRUCK:** The City Manager presented Council with an action request form from Purchasing Agent Dan Weeks with the following bids:

Altec Industries - \$56,735.00  
B & J Chevrolet - \$55,344.63

Public Works Director Glen Sherlin advised that this truck would be white in color.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, Council voted to accept the low bid of B & J Chevrolet in the amount of \$55,344.63.

**CITY VEHICLES • COLOR SCHEME:** The City Manager informed Council that the City has for many years ordered vehicles, excluding fire, police and administration, painted • school bus yellow•. He advised that most vendors do not use that as a standard color and some city vehicles are a different shade of yellow. He stated that now its costs the city more money to order a vehicle, when it has to be painted. Council was informed that it is recommended that the city change the color of its vehicles, excluding police and fire, to • white•. The Manager stated that all vendors have • white• since it is a standard color. The City Council agreed to change the color of city owned vehicles, excluding police and fire, from • school bus yellow• to • white•, as vehicles are replaced.

**INFORMAL BIDS • REPLACE SEWER LINE:** The City Manager advised that several years ago the sewer line which was located under Myron Nelson's house had to be replaced. It is now necessary to replace the sewer line from where that new line stopped to Rutherfordton Road.

Two bids have been submitted as follows:

McCormick Grading & Utilities, Inc. - \$38,400  
Hobson Construction Co., - 50,430

A discussion followed.